

GAO

Report to the Chairman, Committee on
Rules
House of Representatives

January 1986

APPROPRIATIONS

Continuing Resolutions and an Assessment of Automatic Funding Approaches





United States
General Accounting Office
Washington, D.C. 20548

Accounting and Financial
Management Division

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The Honorable Claude Pepper
Chairman, Committee on Rules
U.S. House of Representatives

Dear Mr. Chairman:

In accordance with your request for a historical review of congressional passage of continuing resolutions, this report examines the history of such funding measures for fiscal years 1960 through 1984. In addition, the report also provides information on the use of automatic funding mechanisms in various states and countries as well as discusses the pros and cons of such measures.

We were completing this report as the Balanced Budget and Emergency Deficit Control Act of 1985 was being created and enacted. The act establishes automatic procedures for reducing the funding levels for fiscal years 1986 through 1991 if specified deficit levels are not achieved through the regular budget process. We have not modified this report to address this act's requirements and implications. However, it does seem to us that the Congress will want to consider both the past experience and options described in this report and the experience that will be gained under the emergency deficit control procedures in later developing changes to its permanent rules to be used after these emergency procedures terminate.

Unless you publicly announce the contents of this report earlier, we plan no further distribution of this report until 30 days from the date of this report. At that time, we will send the report to interested parties and make copies available to others upon request.

Sincerely,

Frederick D. Wolf
Director

Executive Summary

In recent years, the Congress has experienced difficulty in reaching agreement on appropriations bills before the start of the fiscal year. In response, it has passed temporary funding measures—continuing resolutions. However, these continuing resolutions now differ greatly in nature from those of previous years.

The House Rules Committee asked GAO to study the use of continuing resolutions in terms of

- how the nature and use of continuing resolutions have changed and how they affect government operations, and
- whether an automatic mechanism to provide temporary funding to agencies, rather than the current continuing resolution procedure, has merit.

Background

Under an automatic continuing resolution approach, funding for agency operations would become available automatically when appropriations bills are not passed on time. If such a mechanism were enacted into law, funding at a specified rate would be available without any further action by the Congress or the President. Under current continuing resolution procedures, both houses of the Congress and the President must act in order for funding to continue at either the same or different funding levels. An automatic continuing resolution procedure would allow funding to continue without the interruptions associated with current continuing resolution procedures, such as votes, amendments, and presidential signatures or vetoes.

GAO was completing this report as the Balanced Budget and Emergency Deficit Control Act of 1985 was being created and enacted. The act establishes automatic procedures for reducing the funding levels for fiscal years 1986 through 1991 if specified deficit levels are not achieved through the regular budget process. GAO has not modified this report to address this act's requirements and implications. However, GAO believes that the Congress will want to consider both the past experience and options described in this report and the experience that will be gained under the emergency deficit control procedures in later developing changes to its permanent rules to be used after these emergency procedures terminate.

Results in Brief

The use of continuing resolutions to provide temporary funding for federal agencies has changed significantly in recent years. Continuing resolutions have become lengthier and more complicated, and have had longer durations. These temporary funding measures have faced impediments, and their enactment has been delayed as they have become the vehicle for unfinished legislative business and detailed appropriations provisions. As such, they have contributed to prolonging congressional debate, funding uncertainty, and, in some instances, delays in payments to recipients of government programs.

The primary advantages of most automatic continuing resolution approaches over current continuing resolution procedures are that they would (1) help mitigate funding uncertainties and (2) provide funds on a timely basis to ensure continued government operations. However, there also would be potentially significant disadvantages associated with automatic continuing resolution approaches. For example, they could (1) reduce, to varying degrees, the pressure on the Congress to reach closure on difficult issues in appropriations bills and (2) create, under some approaches, a procedural bias in favor of continued funding at levels that would not necessarily be based on need. (See chapter 4.)

GAO Analysis

History of Continuing Resolutions

In the past 26 years, the Congress has enacted a total of 90 continuing resolutions to provide stopgap funding in the absence of regular appropriations measures. However, the content of continuing resolutions has changed dramatically in the 1980's. For example, in the early 1960's, continuing resolutions were usually short both in length and in duration. However, in recent years, continuing resolution legislation has been expanded, sometimes including provisions that go beyond the basic purpose of these bills. For example, the fiscal year 1985 continuing resolution was 363 pages long and contained an authorization measure, the Comprehensive Crime Control Act. Furthermore, continuing resolutions have tended to be more comprehensive in that they contain funding for larger numbers of agencies and for longer periods of time. (See chapter 1.)

As recently as the fall of 1984, instead of debating regular appropriations bills, the Congress found itself involved in protracted deliberations

on amendments to a continuing resolution. Because the continuing resolution was not passed on time, federal agencies were caught in an appropriations limbo and the President initiated a shutdown of all nonessential activities and a furlough of nonessential employees. Later, federal employees were paid for their time on furlough. (See appendix II.) As GAO reported in 1981, this type of funding uncertainty also can be disruptive and potentially costly to recipients of entitlement programs such as veterans benefit payments or payments under other federally funded programs. (See pages 22-23 and appendix III.)

However, the full costs and impacts on the government and private sector that result from delayed passage of appropriations bills and continuing resolutions are not known and their calculation would be a difficult, costly, and time-consuming task. For example, total government costs of such delays are not separately identified in agency budgets, nor are they explicitly accounted for or updated when they do occur.

Approaches to Automatic Funding

GAO evaluated several approaches for automatic funding as an alternative to the current continuing resolution practice. These approaches differed primarily in terms of the amount of money and/or rate of funding provided, as well as the programs permitted to continue operating. The approaches ranged from funding levels and programs determined solely by the Congress, to those based on prior-year authorizations and appropriations, to others based solely on presidential recommendations. (See chapter 4.)

Of the automatic continuing resolution approaches GAO evaluated, an automatic continuing resolution that maintains the status quo and provides funding at the previous year's rate is the option that would be the most easily administered and that could reduce the potential for an immediate bias in favor of either the incumbent administration or the Congress. Maintaining the status quo at the previous year's rate could bring stability and continuity to government operations and recipient services. However, a significant disadvantage is that it is impossible to predict where this would lead or how long the Congress would allow the status quo to continue. It is conceivable that political impasses could arise under which government funding could continue for many months or even years for large parts of the government without specific congressional action and at funding levels not necessarily based on present need.

Ultimately, the decision to alter or to continue the current appropriations process is a political decision. However, before moving to an automatic continuing resolution, the effects of such a change should be considered. An automatic continuing resolution would tend to mitigate funding uncertainty and the impact of the funding gaps and delays associated with the current process. It would also allow continued debate on unresolved issues in a noncrisis environment, but, at the same time, it would also reduce the pressure on the Congress to reach closure on difficult appropriations issues.

Further, automatic continuing resolution approaches can limit to varying degrees the flexibility of the Congress to set funding levels based on need and make it difficult or impossible to predict when critical decisions on long-term funding and appropriations issues will be made. These approaches also allow funding to continue without the explicit enactment of a spending measure, which is normally a part of the regular appropriations process.

Agency Comments

GAO obtained comments from the Office of Management and Budget (OMB), the Congressional Budget Office (CBO), the Congressional Research Service (CRS), the state of Wisconsin, and the government of Canada. OMB and Wisconsin provided written comments, which are included in appendixes VIII and IX, respectively. OMB and Wisconsin also suggested language changes, which GAO has incorporated into the report.

Canada provided oral comments to the effect that GAO's discussion of Canadian procedures was accurate. CBO and CRS provided comments which were of a technical and/or procedural nature and were dealt with where appropriate throughout the report.

Recommendations

GAO is making no recommendations.

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Abbreviations

ACR	automatic continuing resolution
CBO	Congressional Budget Office
COLA	cost-of-living adjustments
CRS	Congressional Research Service
GAO	General Accounting Office
GSA	General Services Administration
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
IPU	Interparliamentary Union
OMB	Office of Management and Budget
OPM	Office of Personnel Management

Introduction

Increased reliance on continuing resolutions and the incidence of funding gaps caused by late enactment of appropriations are serious problems associated with decision-making in the federal budget process. For example, during an 11-day period at the start of fiscal year 1985, the Congress passed four short-term continuing resolutions lasting from 1 to 3 days before it reached agreement on a fifth to cover the majority of the appropriations bills, 8 out of 13, for the entire fiscal year. Because of protracted deliberations, a funding gap occurred and federal employees in unappropriated agencies had a half-day furlough. The 1985 continuing resolution contained a total funding package of \$365 billion, consisting of numerous legislative provisions. (For a detailed case study of a recent, though not necessarily typical, example, see appendix II.)

To analyze the problem of late appropriations and to develop possible solutions, such as an automatic continuing resolution, one must consider the present appropriations process and the impact any change might have.

Current Appropriations Process

Each year the Congress has 13 appropriations bills to pass. However, before the Congress can take action on these bills, it must reach agreement on an overall budget resolution and on any needed program authorizations. Currently, when delays in passing the budget resolution or authorizations occur, the House and Senate rules requiring action on them are waived so that floor action on appropriations measures can proceed. As the end of the fiscal year approaches, the Congress has often not taken final action on some appropriations bills. If the Congress realizes that not enough time exists to complete action on the individual appropriations bills before the fiscal year ends, it begins preparing a "catchall" spending measure (continuing resolution).

The Congress enacts continuing resolutions as joint resolutions making continuing appropriations for part or all of a certain fiscal year. Although enacted in this form rather than as an act, once passed by both houses of the Congress and approved by the President, a continuing resolution is a public law and has the same force and effect as any other law. Like all other bills, if the President vetoes a joint resolution, only a two-thirds vote of both houses, voting separately, can override it. However, it is necessary to note that the Congress approaches continuing resolutions differently than normal appropriations acts from both procedural and political standpoints.

Procedurally, the rules of the House of Representatives set out certain restrictions and prohibitions when considering general appropriations bills. For example, a general appropriations bill cannot contain funding for programs that have not been authorized, nor can such a bill contain "legislative" or non-appropriation provisions. However, in the case of continuing resolutions, these limitations do not apply because the House does not consider continuing resolutions to be general appropriations bills. All amendments offered during debate on a continuing resolution, though, must be germane. This procedural distinction is one of the reasons that continuing resolutions could have more provisions added to them in the House than regular appropriations bills. However, in recent years, the House Rules Committee has increasingly reported special rules that limit the offering of amendments to continuing resolutions.

Unlike the House, the Senate, procedurally, considers continuing resolutions to be general appropriations bills. Therefore, the standard prohibitions against funds for nonauthorized programs and legislative provisions in appropriations bills apply. Nevertheless, if the House has incorporated legislative provisions in an appropriations bill (or continuing resolution), the Senate has an inherent right to amend those provisions. Though the Senate has germaneness rules, majority vote, in practice, often defines germaneness. Therefore, the door is opened on the amendment process. The final step in this legislative process is the reconciliation of House and Senate differences in a conference committee. Both houses of the Congress must agree on the conference version of the continuing resolution.

From a political standpoint, a continuing resolution is a "must pass" piece of legislation. Even if the President initially vetoes it, pressure is placed on the Congress to pass the resolution in order to avoid a funding gap for those agencies whose appropriations have expired. In addition, a continuing resolution is more general in scope than a regular appropriations bill. It attracts not only amendments ordinarily included in each of the regular appropriations bills but also other amendments which might not pass on their own but which stand a greater chance of passage attached to a continuing resolution. Sometimes amendments attached to continuing resolutions are the subject of much controversy and debate, which may delay reaching agreement on the resolution long enough to create a funding gap. In any case, under the present process, pressure is maintained on the Congress to act.

Objectives, Scope, and Methodology

The House Rules Committee asked us to (1) analyze the nature of continuing resolutions and reassess our previous work on funding gaps, (2) review foreign and state government methods of handling late appropriations, and (3) examine the feasibility of a permanent, automatic continuing resolution. (See appendix I.) To accomplish this:

- We reviewed the 90 continuing resolutions used in the last 26 fiscal years (1960-85). This period spanned seven administrations. We examined each continuing resolution to identify characteristics such as duration, appropriations coverage, funding formulas, line-items, and riders. We then statistically analyzed these characteristics to determine patterns and trends in the use of continuing resolutions. Further, we interviewed individuals knowledgeable about the impact of late or uncertain federal funding due to a funding gap or a short-term continuing resolution.
- We conducted interviews with individuals who had experience dealing with funding gaps. We also obtained information about the use of automatic continuing resolutions in foreign and state governments. In addition, we reviewed a Interparliamentary Union (IPU) publication¹ which described automatic provisions to handle late budget passage in 54 foreign countries. From these data, we initially selected 16 countries that (1) represented a range of approaches to the continuation of funding, (2) were democratic forms of government (principally parliamentary), and (3) were industrialized nations. For further clarification, we contacted budget officials in our sample countries and obtained updated responses to the IPU publication. The sample was narrowed still further to 11 countries (see table 3.1) as we reviewed available data. We also visited Ottawa, the capital of Canada, and Toronto, the capital of Ontario province, to interview executive and legislative officials about their budgeting system, especially regarding their frequently used temporary funding mechanism. We contacted officials of all 50 states and found that 13 had either experienced funding gaps or had an automatic continuing resolution provision in their statutes. We selected 7 of the 13 to visit on the basis of their meeting the following criteria: (1) did they have funding gaps, (2) did they have a provision for dealing with funding gaps, and (3) did they have recent (within the last 10 years) experience in using the provision?
- We assessed six different approaches to automatic continuing resolutions (ACRS). These six approaches represent the major ACR options based on the consensus of opinion from several sources, including proposed

¹Valentine Herman and Francoise Mendel, Parliaments of the World (Geneva, Switzerland: Interparliamentary Union, 1976), pp. 746-761.

legislation, informal proposals by members of Congress, continuing resolution practices, foreign country automatic practices, and our ideas. We used six criteria to test the extent to which each approach would (1) provide incentives to enact regular spending legislation, (2) permit stable government operations, (3) maintain stable services to recipients of government programs, (4) allow the Congress, given a predetermined funding level, to control the budget, (5) provide for easy implementation, and (6) provide a political advantage to either the executive or legislative branch.

We were completing this report as the Balanced Budget and Emergency Deficit Control Act of 1985 was being created and enacted. The act establishes automatic procedures for reducing the funding levels for fiscal years 1986 through 1991 if specified deficit levels are not achieved through the regular budget process. We have not modified this report to address this act's requirements and implications. However, it does seem to us that the Congress will want to consider both the past experience and options described in this report and the experience that will be gained under the emergency deficit control procedures in later developing changes to its permanent rules to be used after these emergency procedures terminate.

Our work was performed in accordance with generally accepted government auditing standards between December 1983 and December 1984.

We obtained comments from the Office of Management and Budget, the Congressional Budget Office, the Congressional Research Service, the state of Wisconsin, and the government of Canada on a draft of this report. Technical changes have been incorporated where appropriate.

History, Causes, and Impacts of Uncertain Funding

A historical analysis shows that while continuing resolutions are a common occurrence, they have dramatically changed in nature, especially in recent years. The Congress passed temporary or partial appropriations as early as 1798, using half-page documents which were limited in scope. However, continuing resolutions in the 1980's represent a change in previous practice; they are more comprehensive, their content is more tailored to each appropriation, and they are in effect for longer periods of time. These resolutions have been used in place of regular appropriations bills and are so broad in scope as to resemble omnibus appropriations bills. The underlying causes for these changes are certain inherent problems in the political decision-making process which affect budget choices. Moreover, both the government and the public feel the impact of uncertain funding, which includes both funding gaps and short-term continuing resolutions.

History of Continuing Resolutions: A Common Occurrence but Changing in Nature

For our historical analysis of continuing resolutions, we chose the last 26 fiscal years, 1960-1985. During this period, there were 90 continuing resolutions covering seven administrations. Specifically, we examined the amount of detail, duration, appropriations coverage, funding formulas, line-items, and riders contained in these continuing resolutions. Further, we statistically analyzed these continuing resolutions to determine emerging patterns and trends.

Trends in Length and Detail: Increasing Complexity in Continuing Resolutions

Over the 26-year period, the amount of detail and the resulting number of pages in continuing resolutions increased at least a hundredfold. From 1960 to 1979, continuing resolutions ranged from one to three pages in length. However, during the 1980's, some continuing resolutions were as long as 20 or more pages, and, recently, the 1985 resolution contained 363 pages.

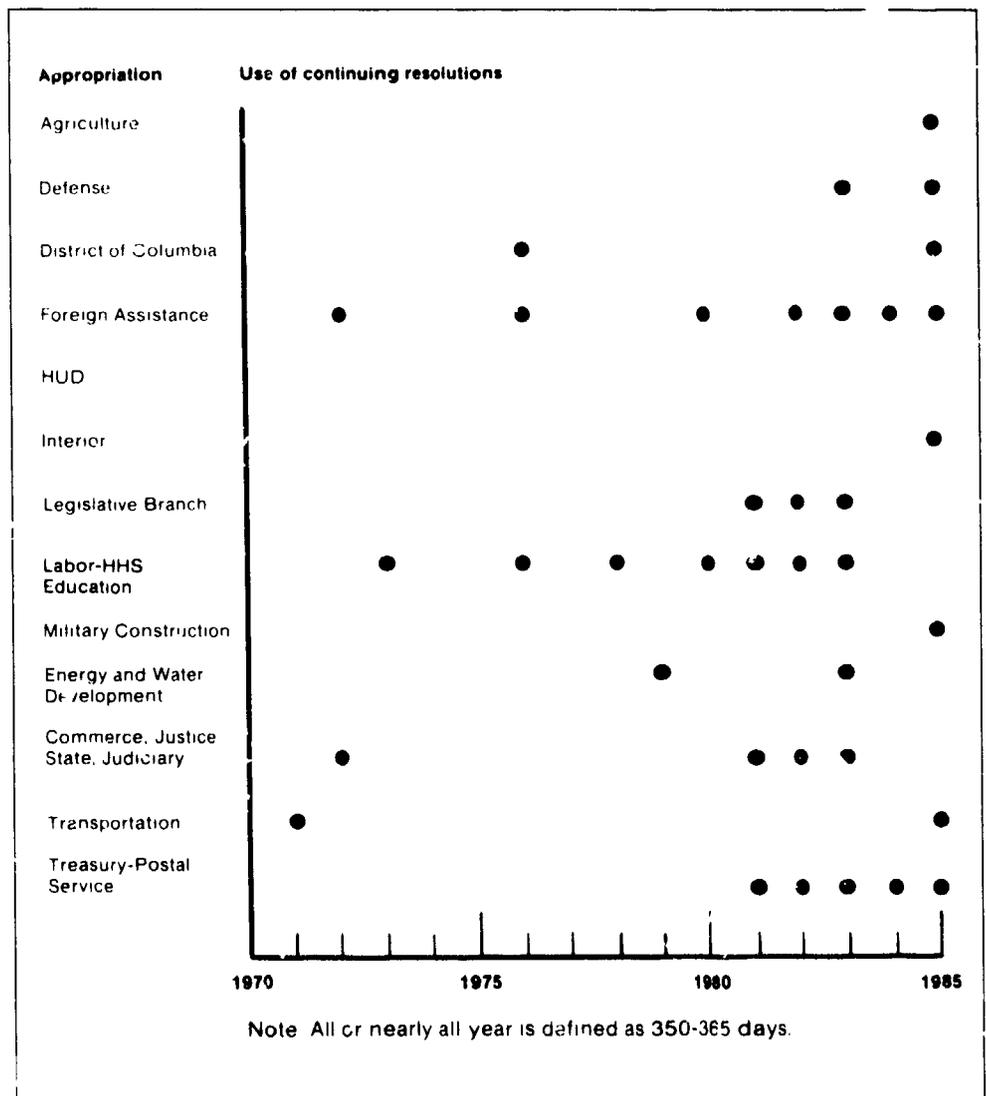
One explanation for the increased length of continuing resolutions is an evolving change in content over the last 26 years. From 1960 to 1979, continuing resolutions generally consisted of three or four funding formulas for the appropriations covered, a few line-item appropriations, and little detail. Beginning in fiscal year 1978, the Congress began repeating the content of the fiscal year's previous continuing resolutions in subsequent resolutions for the same year instead of simply extending the expiration date. In the 1980's, generally each continuing resolution, whether it was the first in a fiscal year or an extension of one, was long in comparison to those of earlier years. This increase in length consisted primarily of greater numbers of different funding formulas, line-item

appropriations, riders, greater incorporation of detail associated with regular appropriations bill language, inclusion of regular appropriation acts in their entirety, and legislative provisions, such as the Comprehensive Crime Control Act.

Trends in Duration and Coverage

The 1980's have seen an increase in the use of both all-year or nearly all-year funding (350-365 days) and in the number of appropriations covered in this manner by continuing resolutions.

Figure 2.1: Growth of All-Year or Nearly All-Year Funding in Continuing Resolutions



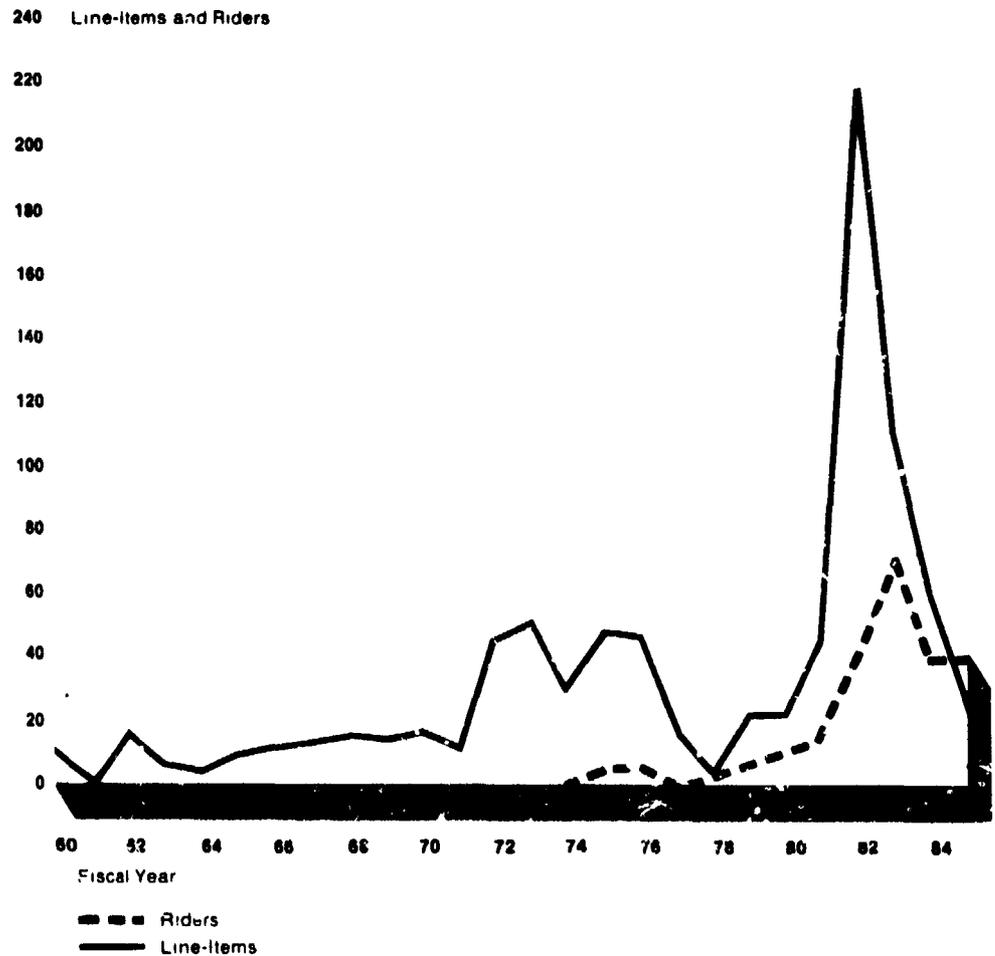
No continuing resolutions funded an appropriation for a full year in the 1960's. In the 1970's, from one to three appropriations per year were funded for a full year under a continuing resolution. However, in the 1980's from two to a high of eight appropriations in fiscal year 1985 were funded all year by a continuing resolution. The appropriations funded most often for an entire year or nearly an entire year were Foreign Assistance and Labor HHS-Education.

Continuing resolutions covered 10 of the 13 appropriations bills during at least part of the year for 20 of the 26 years reviewed. For somewhat more than half of the 20-year period, even the remaining three appropriations—Interior, Treasury-Postal Service, and Transportation—were covered by continuing resolutions for part of each year. Based on a calculation of the total number of days an appropriation operated under continuing resolutions each year, Foreign Assistance, Labor-HHS-Education, and Commerce, Justice, State, Judiciary appropriations ranked above the rest, operating under a continuing resolution almost one-third to one-half of the time over the 26 years.

Trends in Line-Items and Riders: More Special Provisions in Continuing Resolutions

The number of line-items and riders on continuing resolutions is a measure of the increase in special provisions in these bills, especially in the 1980's. By definition, a line-item appropriation provides funds for a specific program or activity, whereas a rider is a clause which either provides legislative directives or imposes limitations on existing funding. In our analysis, if the continuing resolution incorporated a full appropriations bill either by formula or by reference to other legislation, we counted only those line-items and riders which were separate from the text of such appropriations. While the number of line-items and riders included in continuing resolutions does not capture all instances of special funding or legislative provisions, it provides a rough estimate of change in activity.

Figure 2.2: Number of Line-Items and Riders in Continuing Resolutions From 1980 to 1985



Over the 26-year period, 363 line-items appeared in continuing resolutions but over 100 were in fiscal years 1982 and 1983. The appropriations with the greatest number of line-items were the Commerce, Justice, State, Judiciary appropriation and the Legislative Branch appropriation, again with the greatest occurrence in fiscal years 1982 and 1983.

While the statistics show fewer riders for fiscal year 1985, they do not fully reflect the extent of the rider activity relative to previous years. For example, in the fiscal year 1985 continuing resolution, we counted

the Comprehensive Crime Control Act, which would have been considered a major piece of legislation on its own, as one rider even though it constituted over 200 pages of the 363-page law. In comparison, the more common instance was a paragraph-long rider.

Trends in Funding: More Formulas Used

The pattern of funding formulas used in continuing resolutions shows the most dramatic change in the 1980's. In the period from 1962 to 1969, the funding formulas predominantly used for 11 of the 13 appropriations were "Lower of House Passed or Current Rate" and "Lower of Current Rate or Budget Estimate." A less frequently used formula was "Lower of House or Senate Passed Levels," which tended to appear in the absence of the previously cited formulas. This formula was somewhat concentrated in the period 1960-62, appearing in 9 of the 13 appropriations. To some extent, this pattern of funding formula use continued through the 1970's, with a slight increase in the use of "Lower of House or Senate Passed Levels" (7 of 13 appropriations).

In the 1980's, however, this pattern largely broke down. Funding formulas varied widely and many new ones appeared. Furthermore, the 1980's saw greater use of reference bills² and legislative documents, such as committee conference reports, for funding formulas than the preceding 20 years. The heaviest use of reference bills in the 1980's was concentrated in the programs for the following appropriations: Legislative Branch, Military Construction, and Commerce, Justice, State, Judiciary.

Causes of Continuing Resolutions

Why suddenly in the 1980's did continuing resolutions undergo such change? One explanation for these changes is that they are a reflection of difficulties in decision-making affecting the budget process and the overall institution of the Congress. These difficulties largely stem from the intractable nature of the policy choices facing the Congress and the inherent uncertainties of a political decision-making process. To some extent, the difficulties rest in the traditional institutional conflicts over budget policies between the executive and legislative branches. Within the legislative branch, the conflicts arise between House and Senate

²A continuing resolution may provide funds to continue activities at a rate provided for in other legislation. Unless otherwise provided, the status of the reference bill on the date the continuing resolution becomes law determines which version of the reference bill applies.

committees, coalitions, leaders, and special interests. The political challenge lies in reconciling views which are both strongly-held and mutually exclusive. Though the Congress must accomplish this reconciliation, it is a fact of life that the range of issues on which the reconciliation must be accomplished and the strength with which the conflicting views are held have both increased in recent years. It is perhaps these reasons, along with building coalitions strong enough to lead the institution in making decisions, that result in a greater reliance on continuing resolutions.

Another explanation for these changes is that they represent a different legislative approach to dealing with difficult issues—that of legislative packaging. Observers of the Congress have noted that in recent years it has turned more to legislative packaging as a way to combine different legislative items in one bill which stands a greater chance of passage than the individual items considered separately. Two examples of this kind of legislation are the Omnibus Reconciliation Act of 1981 and the Tax Equity and Fiscal Responsibility Act of 1982. This technique of legislative consolidation may also be indicative of a response to perceptions of increased congressional workload and redundant budget decisions. This tendency toward consolidating legislative decisions is consistent with recent budget reforms under congressional consideration in the last few years such as an omnibus budget bill, an omnibus appropriations bill, and biennial budgeting.

The following examples present two different views about the decision-making problem in a legislative context. The first is from an *Atlantic Monthly*³ article titled "What's Wrong With Congress?" which expresses the view that decision-making is nearly impossible because of so many competing interests with overlapping jurisdictions. The article explained that in the summer of 1984 the Senate majority leader was negotiating a defense authorization bill and the defense appropriations bill simultaneously with various provisions of a House-Senate conference committee deadlocked on the defense section of the budget resolution. In other words, he was trying to arrive at three different versions of the same figure—none of which would be final. "This is crazy," the Senate majority leader told the Temporary Select Committee on Committees, in a plaintive tone, "It makes absolutely no sense."

³Gregg Easterbrook, "What's Wrong With Congress?" *The Atlantic*, vol. 254, no. 6 (December 1984), p. 57.

The next excerpt, however, points out that the conflict described above is built into the legislative process and that such conflicts are necessary to get the kind of attention that produces a consensus truly expressing the will of the people. In an interview, former Representative Barber Conable, Jr., of New York, then senior Republican on the Ways and Means Committee, said

"We are really a crisis-activated institution. And that has all kinds of interesting implications. It means that we don't do anything unless there's a consensus out there that unless we do something, something very bad is going to happen. And that means that we are almost inevitably behind the curve."⁴

Accordingly, the imminent threat of a funding gap is just the sort of crisis which gets continuing resolutions passed.

Along with the problems inherent in the decision-making process, the task of budgeting itself has become far more complex in terms of both the budget documents and the budget process. Not only has the federal budget become more comprehensive, but also it dramatically involves more funds. For example, total budget outlays grew by over 200 percent from 1974 to 1984, or from about \$269.4 billion to about \$870 billion. Even though the budget has grown, budget choices are more difficult because what is generally considered the controllable portion, that portion of the budget which the Congress and the President can increase or decrease in a given year without changing existing legislation, has decreased to one quarter of the total. In addition, the current budget process, instituted by the Congressional Budget and Impoundment Control Act of 1974, has expanded the number of participants, made the process more visible, produced more budget data, and added legislative requirements. This has given the Congress the capability to deal more comprehensively with the budget, but has in many respects complicated the task further and generated redundancy in the system. As a result, budget issues increasingly dominate the congressional agenda.

In theory, continuing resolutions were only meant to be temporary and limited solutions to the problem of unapproved appropriations at the end of a fiscal year. However, as has been increasingly the case, continuing resolutions have become as much a part of the problem as a solution. They have evolved from a single-page document that funded

⁴Congressional Quarterly Weekly Report, vol. 42, no. 44 (Nov. 3, 1984), p. 2870.

activities for a relatively short period to a several-hundred-page document funding activities for the whole fiscal year and entirely supplanting regular appropriations bills. Further, the broader scope of continuing resolutions presents an opportunity to attach legislative riders and to construct bill "packages" containing a variety of provisions, resulting from compromises necessary to obtain passage.

Because a continuing resolution is a "must pass" piece of legislation, it has become critical not only to the budget agenda but also to the overall legislative agenda. Continuing resolutions have provided more and more of a "last chance" for legislative proposals that have failed the routine steps for passage. As such, continuing resolutions are now more than a vehicle for late appropriations—they also give the Congress an additional opportunity to make legislative decisions that have otherwise been left unresolved by the decision-making process, a result not fully intended or anticipated in their original design.

The following statement, from the Congressional Record,⁵ by Senator Dan Quayle, Chairman of the Temporary Select Committee to Study the Senate Committee System, represents a view of what can happen in the Senate when it considers a continuing resolution:

"Today, as the Senate prepares to continue the battle on the continuing resolution, we are really entering the twilight zone of the legislative process. There will be literally hundreds of amendments possibly offered to this catch-all bill in the next few days. The amendments offered will be important to the individual Senators but much less important to the Senate as a whole. I am sure every Senator has four or five possible ideas he, or she, would like to have passed. We will go through all sorts of gyrations, procedural tactics, long speeches, short speeches and political posturing. During these last few days we will witness the Senate at its absolute worst. This institution will pass nine appropriations in one bill. These appropriations represent over 80 percent of the amount in the Appropriations Committee's jurisdiction. If we can really pass 80 percent of the Government in a few days, then, perhaps we ought to just meet for a few days a year and call it quits."

⁵ Congressional Record, Sept. 28, 1984, p. S12271.

Assessment of the Impacts of Funding Gaps and Short-Term Continuing Resolutions

In 1981, we issued a report⁶ on the history of funding gaps—a period during which federal agencies have no authority to incur obligations or to make payments—and on their impact on government operations and on the public. (See appendix III.) In this current report, we not only reassessed the issue of funding gaps to determine if any significant changes have occurred in the past 4 years but also examined potential impacts of short term continuing resolutions. We found that the impacts of both funding gaps and short-term continuing resolutions can best be described in terms of uncertainty, resulting in administrative problems and lost productivity. However, the specific cost data associated with these problems have been difficult to quantify and are generally unavailable.

Update on the Impact of Funding Gaps and Continuing Resolutions

The hypothesis developed in our 1981 study was that the major impact of uncertainty created by funding gaps was largely lost productivity at an unknown cost. We attempted to update this hypothesis and relate it to continuing resolutions as well by interviewing 21 individuals knowledgeable about the impact of late or uncertain funding. We developed our list of interviewees from recommendations from budget experts in federal, state, and local governments, as well as those in academia. (See appendix IV.)

Short-term continuing resolutions and funding gaps both result in certain intragovernmental problems; one of the greatest is the uncertainty created. As our 1981 study pointed out, such uncertainty is disruptive, costly, and time-consuming. We found that an 11-day funding gap in fiscal year 1980 affected some segments of the public in the following ways:

- The government delayed about 100,000 GI-bill education checks from 7 to 9 days.
- The Department of Housing and Urban Development delayed nearly \$48 million in housing subsidy payments from October 1, 1979, until the continuing resolution was enacted on October 12.
- The government delayed for 10 days payments to about 22,000 people disabled by black lung disease.
- In two states, the Department of Agriculture completely shutdown a food program which provided supplemental food to 1.6 million pregnant or nursing mothers and small children. A nationwide shutdown of the

⁶Funding Gaps Jeopardize Federal Government Operations, PAD-81-31, March 3, 1981.

program would have occurred several days later if funding had not been provided.

- The government delayed for up to 2 days supplemental security income benefits for all new applicants approved during October 1980.
- Health Care Trust Funds lost between \$1 million and \$2 million in interest because federal matching payments were delayed. General funds absorbed the lost interest expense.

Our recent interviews confirmed that this situation has not changed and is not likely to do so in light of current budgetary circumstances. For example, each time the threat of a funding gap occurs, affected federal agencies must be ready to begin shutdown operations. This requirement can be disruptive to normal operations and productivity.

Furthermore, at state and local levels, funding uncertainty still adversely affects grant-in-aid⁷ programs and entitlement program recipients. The federal government contributes 22 percent of state and local grant-in-aid funding. Therefore, funding uncertainty produces delays and frustration among aid recipients and government employees.

Another example officials told us about is the impact funding gaps and continuing resolutions have on federally funded research and development projects, many of which are conducted at private colleges and universities. A disruption, or even a potential disruption, in research funding impairs the timeliness and cost-effectiveness of the work. Further, many of the best-qualified research applicants may be lost because they are reluctant to accept tentative positions, or they may not be available for rehire should a disruption in funding occur.

Therefore, based on the consensus of the individuals we interviewed, we believe that the findings of our 1981 study are still valid and that the impacts described in the study closely approximate those of short-term continuing resolutions. However, as previously noted, the recent trend has been toward longer-term and even full-year continuing resolutions.

Comments and Our Evaluation

In commenting on the discussion of the requirement for shutdown operations during funding gaps, OMB requested that the requirement not be characterized as an OMB requirement, since the OMB instructions were issued pursuant to a U.S. Attorney General opinion. We deleted the

⁷For the purpose of the budget, grants-in-aid consist of budget outlays by the federal government to support state or local programs of governmental service to the public.

Chapter 2
History, Causes, and Impacts of
Uncertain Funding

statement on page 23. The origin of the requirement is described in appendix III. (See pages 57-58.)

Foreign Country and State Experience With Late Approval of Budget and Permanent Continued Funding Mechanisms

As part of our review of the problem of late appropriations, we analyzed how other governmental systems—foreign countries and states—handle similar problems. This insight was important in later examining alternate ways of dealing with delayed appropriations and in assessing the feasibility of adopting an automatic continuing resolution mechanism. In general, we found that although several foreign countries have constitutional or statutory provisions to continue funding in the absence of a budget, few have had occasion to use these options. In addition, fundamental differences in political systems, especially the separation of powers and fixed terms of office in the United States versus separation and variable terms of office in parliamentary countries, make foreign experiences in handling funding matters not fully relatable. Also, we found that even though the majority of the 50 states have had little or no experience with late approval of budgets, those states that do have a provision to continue funding have adopted a variety of alternatives to deal with this problem.

Foreign Country Experience

Foreign countries have generally dealt with the prospect of late budget approval in one of three ways. Temporary funding is provided (1) automatically, (2) by special legislation, or (3) by executive authority. (See table 3.1.) National constitutions usually contain such authority although some countries have placed this authority in their statutes.

For each of these three funding methods, budget coverage and funding levels may vary. Budget coverage ranges from all activities approved in the previous year's budget to all activities recommended in the executive's budget to a list of specific activities. Funding levels are set at either the previous year's level, the level recommended in the executive's budget, or at a level as needed.

**Chapter 3
Foreign Country and State Experience With
Late Approval of Budget and Permanent
Continued Funding Mechanisms**

Table 3.1: Temporary Funding Measures Available in Selected Foreign Countries

Options	Funding levels	Countries
1. Automatic continuation of funding	A) Previous year B) Certain activities only	Austria West Germany Finland
2. Temporary funding approved by legislature	A) Previous year B) Proposed budget C) Certain activities only D) As needed	Netherlands France* Canada Australia Denmark Norway
3. Temporary funding continued through executive authority	A) Previous year B) Proposed budget	France* Spain Brazil

Note: This table illustrates representative but not exhaustive examples.

*France has two options available.

Use of Available Options

Of the countries in our sample (shown in table 3.1), most have had little or no occasion to use the option available to continue funding in the absence of a budget. One possible explanation for the lack of experience could be that many of these countries' governments are organized under the parliamentary system. Under such a system, if the parliament would actually reject the executive's proposed budget, this action could be interpreted as a "vote of no confidence," which would require the administration in power to resign and new elections to be held. Given the consequence of rejecting the budget, we found the countries in our sample had little need for using the provisions available. However, for countries which follow the British parliamentary system, as Canada and Australia do, the parliaments have often not completed their consideration of the new budget by the start of the fiscal year. Therefore, the parliaments routinely approve temporary funding measures to be effective at the start of the fiscal year and approve the full budget later.

The Canadian Appropriations Process

Canada uses its temporary funding option frequently, largely because of the structure of the Canadian appropriations process and of its schedule of supply (appropriations) bills. Each year around February, the Prime Minister submits to the Parliament the main supply bill, which is roughly analogous to the President's budget request (expenditures only) in the United States. Since Canada's fiscal year begins April 1, the Parliament does not have much time to consider fully the main supply request. By statute, the Prime Minister has authority to request parliamentary approval of temporary funding until the main supply bill has been passed. Normally, the Parliament approves such a measure, the

interim supply bill, in late March. The interim bill contains the same funding level as the main supply bill and is in effect for the first 3 months of the new fiscal year. Therefore, interim supply can be compared to a continuing resolution with funding levels and coverage based on the executive budget request. Under the Canadian system, the funding levels specified in the executive budget request are almost universally enacted into law.

State Government Experience

At the outset, it should be noted that 20 states have biennial budgets. For these states, even if their budgets are chronically late, a problem would only occur every 2 years. However, the majority of the 50 states have little or no experience with late approval of budgets. The seven states we visited have approached the potential problem of late budget approval using one of five options to continue government operations. (See table 3.2.) Three options provide temporary funding: one automatically provides funding, a second necessitates special legislation, and a third requires executive authority. Another option, however, provides no funding but authorizes the state to obligate but not to expend funds. The first three options are generally based on statutory authority, while the last has its basis in the concept of a moral obligation to continue government services. If none of these options were available or used, states would be forbidden to obligate or expend any funds.

In the states where these options exist, the activities covered (until new budget approval) are usually those approved and funded in the previous year's budget. Two states, however, have chosen on occasion to fund a limited number of previous-year activities, while one state chose to add new activities to those of the previous year. Funding levels are generally one month increments of the previous year's funding. When the funding level is not set at the previous year's level, it is set at whatever level is needed.

**Chapter 3
Foreign Country and State Experience With
Late Approval of Budget and Permanent
Continued Funding Mechanisms**

Table 3.2: Temporary Funding Measures in Selected States

Options	Funding level	States
1. Automatic continuation of funding	A) Previous year	Wisconsin New Mexico Alabama
2. Temporary funding approved by legislature	A) Previous year B) Certain activities only C) As needed	Massachusetts ^a Massachusetts ^a Pennsylvania
3. Temporary funding continued through executive authority	A) Certain activities	Indiana
4. Authority to obligate but not to expend	A) Previous year	California Massachusetts ^a

Note: This table illustrates representative but not exhaustive examples.

^aMassachusetts has more than one option available.

Use of Available Options

Although options for continued funding in the event of late budget approval exist in some states, the majority of these states have had little or no actual experience using these options. However, in the past decade, California and Massachusetts have experienced delays in getting their budgets approved and have often operated without funding in order to continue government services. State employees generally report to work, but the state does not issue any checks or warrants. The state may slow down some activities such as procurement, but otherwise the atmosphere is "business as usual." Unlike the federal government, these states do not begin shutdown procedures because they have nothing comparable to the Antideficiency Act requirements (see "funding gaps" in glossary) in their statutes.

Wisconsin and Its Statutory Automatic Continued Funding

Of the states we visited, Wisconsin is the only one which frequently uses an automatic funding mechanism. In its state statutes, Wisconsin has a provision that automatically funds state activities at the previous year's funding level until the regular appropriation is approved. Wisconsin has operated under this provision in 8 of the last 12 biennial budget cycles, usually for 1 month or less. Wisconsin has developed specific procedures to follow while operating under this provision. For example, allotments are automatically made at specified levels. In addition, the secretary of administration closely monitors revenues and expenditures during this time. Finally, Wisconsin has four different appropriations types which further govern the spending level. These include:

- annual appropriation (previous year's level),
- biennial appropriation (previous biennial level),

- sum-sufficient appropriation (such sums as necessary, usually the estimate in the pending biennial budget unless this represents a policy change), and
- continuing appropriation (available until depleted or repealed, consisting of end-of-year balance and anticipated new revenues).

State officials feel this mechanism provides a desired stability of services during the interim period. At the same time, the inevitable passage of the pending budget is not threatened because other incentives such as the part-time nature of the legislature and public pressure force the members to pass the budget bill. Furthermore, a tremendous incentive for members to pass the bill is built into the budget process because the budget bill is all-inclusive, setting both ongoing spending and revenues as well as new services the legislators, agencies, and lobbyists want. In addition, by law, the legislature may not pass any bill which appropriates more than \$10,000 or decreases revenues by the same amount until the budget bill has been passed. Consequently, passing the budget bill is the legislature's principal task each session and must be accomplished before the legislature can move on to most other business.

Comments and Our Evaluation

In commenting on the description of Wisconsin's budget process, the state of Wisconsin's Department of Administration suggested several changes to the description to make it more accurate and understandable. We concurred with all the suggested changes and have incorporated them into this chapter.

Automatic Continuing Resolution Approaches: An Assessment

Late passage of regular appropriations bills results in one or both of the following events—a funding gap or passage of a continuing resolution, neither of which is without problems. On the one hand, funding gaps are often characterized as threatening agency shutdowns, creating an atmosphere of confusion and uncertainty, and incurring unnecessary cost. A funding gap at the federal level has the potential to affect millions of Americans, such as people on fixed incomes who experience a delay in receiving their entitlement checks. Also, states may be put in the position of using their own moneys to fund federal programs.

On the other hand, continuing resolutions are characterized as (1) being difficult to interpret, especially program amounts and duration of terms and conditions, (2) creating planning difficulties when funding levels and program limitations are subject to change several times in a fiscal year, and (3) being vulnerable to attachment of controversial riders which often delay passage and threaten funding gaps. The Congress is concerned about the problem of late appropriations and the resulting difficulties. Some members have suggested that perhaps a permanent mechanism to continue funding could solve these difficulties.

Although this study and our 1981 funding gaps study (see chapter 2) somewhat overlap, one critical difference exists. The 1981 study looked only at the problems caused by funding gaps and recommended enacting legislation permitting agencies to obligate but not expend funds during periods of expired appropriations. In this study, the committee asked us to look at not only funding gaps but also continuing resolutions and to assess the feasibility of an automatic continuing resolution. When viewed in this broader context, the position taken in the 1981 report is somewhat moot because it would serve only as a short-term solution to funding gaps but would not necessarily eliminate continuing resolutions. In this study, we assumed that no funding gap would occur because the government would operate under some form of continuing resolution. This study considers which form of a continuing resolution would be best to operate under.

Appropriations Process With an Automatic Continuing Resolution

The concept of a permanent (and thus automatic) continuing resolution has been offered as a possible answer for the problem of late appropriations. Without question, such a mechanism would significantly change the appropriations process. Funding for agencies to stay in operation, when their appropriations bills have not been passed, would continue automatically without congressional or presidential action. To accomplish this, the Congress would have to enact a permanent law.

Unlike a traditional continuing resolution, the automatic continuing resolution (ACR) method of continuing funding, once established, would not be subject to House and Senate votes, presidential signature or veto, or any amendments. It would completely bypass the legislative process and be automatically effective without delaying amendments or threat of veto. Therefore, under this process, at the beginning of the fiscal year, the ACR mechanism would automatically fund any agencies funded by appropriations bills which had not yet passed. This mechanism would preclude the possibility of funding gaps. However, in contrast to the regular appropriations process, the funding levels in effect under the ACR mechanism would not necessarily reflect current program needs. To change any or all of the ACR funding levels, the Congress would need to pass further legislation such as regular appropriations bills, a traditional continuing resolution, or even amendments to the original ACR law.

The prospect of having this mechanism available raises several questions concerning its effect on the process: What incentives to enact regular appropriations bills would the Congress have if funding continues automatically? How can stable government operations and services be maintained? How can the Congress maintain control over the purse? Would an ACR provide a political advantage for either the legislative or the executive branch? This chapter presents our assessment of various ACR approaches in which we address these and other questions.

Assessment of ACR Approaches

We considered approaches from several sources: the requester, proposed legislation, models used in foreign countries, and those we developed. We decided on six criteria to use in this assessment. The requester suggested some criteria: stability of government operations (including disruption and waste) and incentive to enact regular spending legislation. (See appendix I.) Our other criteria represent the additional factors to consider in determining how any of the ACR approaches might work and how they might fit into the present budget process. When we assessed the various ACR approaches, we attempted to evaluate the extent to which they would

- provide incentive to enact appropriations bills,
- permit stable operations of government,
- maintain stable services to recipients,
- permit the Congress to maintain its control of the public purse,
- be easy to implement, and
- affect the balance of power between the legislative and executive branches.

It is not possible to fully ascertain how the approaches would perform without some way of testing them. Therefore, we limited ourselves to our best judgment of how the approaches would probably measure up.

Six ACR Approaches Considered

The six approaches represent the major ACR options based on the consensus of opinion from several sources, including proposed legislation, informal proposals from members of Congress, continuing resolution practices, foreign country and state practices, and our ideas. (See appendix V.) The six approaches we looked at differed primarily in terms of two important factors—action-forcing and stability.

1. Current Rate Approach

Funding level - Total funds which were available for obligation in previous year, including carryover balances. (Current rate refers to a sum of money rather than a program level.)

Coverage - Includes all activities conducted in previous year. Entitlement recipients receive scheduled cost-of-living adjustments (COLAs). Restricts federal comparability pay increases.

Source - This is a modification of the form of a "current rate" used in continuing resolutions because it allows for cost-of-living adjustments for certain entitlements. This is a similar approach to that taken for proposed automatic continuing resolution legislation introduced by Representatives Dingell and Mineta.

2. Current Operating Level Approach

Funding level - Sufficient funds to maintain programs at the same activity level as at the end of the previous year. Generally, an increase in total funds available for obligation from previous year's level.

Coverage - Includes all activities conducted in the previous year.

Source - Used once in a continuing resolution.

3. Legislation Passed by Either House Approach

Funding level - Varies depending on how far the appropriations bills have progressed in the legislative process and can change each quarter if further legislative action occurs.

Coverage - Includes all activities as defined by the versions of the appropriations measures furthest along in the legislative process and can change each quarter if further legislative action occurs.

Source - Developed by GAO.

4. Lowest Level Approach

Funding level - Level representing lower of House or Senate action. (Variation sets level at lower of House or Senate action or the President's budget.)

Coverage - Includes all activities as defined by legislation setting lowest funding level. (Variation would define coverage as that in legislation or the President's budget, whichever had the lowest funding level.)

Source - Used in continuing resolutions.

5. President's Budget Approach

Funding level - Level set forth in the President's budget estimates for October 1 of a fiscal year. (Could be subject to revisions.)

Coverage - Includes all activities set forth in the President's budget estimates for October 1 of the new fiscal year.

Source - Used in some foreign countries.

6 Restrictive Levels

Group of approaches, all restrictive in nature because each has some feature which induces congressional action.

A. Graduated Reductions

Funding level - Cut to current rate, then decreased by a set percent at regular intervals.

Coverage - Includes all activities conducted in the previous year.

Source - Developed by GAO.

B. Fixed Reductions

Funding level - Cut to a fixed percentage of current rate.

Coverage - Includes all activities conducted in the previous year.

Source - Developed by GAO.

C. Withhold COLAs

This approach would be treated as an amendment to an ACR at current rate.

Funding level - Indexed programs are held at current rate or receive partial COLA.

Coverage - Depends on definition. Could vary to cover only annually appropriated entitlements or all indexed programs.

Source - Adapted from ideas in House Budget Committee Chairman Jones' proposals and in Senator Dole's 1983 budget plan.

**D. Federal Pay and Funds for
Related Support Services**

Funding Level - Rate of preceding pay period.

Coverage - Salaries of federal employees and the cost of basic support services, such as water and electricity. Includes no funds for programs.

Source - Developed by GAO.

Criteria

In order to assess the various approaches to an ACR, we selected six criteria. (See appendix VI.) Some criteria are based on the requester's suggestions, and the last two were added because we believe they are important to the stability of the policy-making process.

Action-forcing - Features in an ACR that provide incentives for the Congress to act on appropriations bills either because funds are provided counter to the Congress' wishes or congressional prerogatives are lessened.

Stable recipient services - Features in an ACR that ensure continuity of services or little or no interruption in full benefit levels to recipients.

Stable government operations - Features in an ACR that ensure continuity of government operations and involve little or no waste or duplication of effort.

Majority congressional control over the purse maintained - Features in an ACR that reflect the majority of the Congress' will over funding decisions and do not provide a political advantage to the executive branch.

Easy implementation - Features in an ACR that make it relatively easy for the executive branch to incorporate in its planning and budgeting systems and for the Congress to handle from a political standpoint.

Relative political advantage - Features in an ACR that would not undercut congressional or executive influence in funding decisions.

Assessment

For purposes of our assessment of the various approaches to an ACR, we analyzed each one as if it had already been adopted. Our assessment of the ACR approaches is presented in a matrix (see appendix VII) which shows how each approach would fare when weighed equally against each of the first five criteria presented above, as well as against the other approaches. The two ACR approaches judged better than the rest are "legislation passed by either house" and "current rate." They scored higher than the other approaches based on our subjective scoring (high, moderate, and low).

Legislation Passed by Either House

Action-forcing - This approach would be considered moderately action-forcing. Before the new fiscal year begins, it would be highly action-forcing as it would act as a strong incentive on each house to complete action on appropriations bills in order to influence the ACR funding level. However, after the new fiscal year begins, these action-forcing features lose their appeal for the house whose decisions were the basis of the ACR funding level for the first quarter of the fiscal year.

Stable services - This approach would yield a high degree of stable recipient services because the potential exists to incorporate economic changes over the past year into appropriations legislation passed by either house.

Stable operations - This approach would permit government operations to continue at a highly stable level due to the opportunity to reflect economic and programmatic changes in the ACR funding level. Furthermore,

for all programs covered by the ACR, the continuity of operations in all likelihood would be unimpaired.

Congressional control maintained - This approach allows the Congress exclusive control and maximum flexibility over the ACR funding level. Congressional priorities would be reflected in either the House or Senate bills, or both, with the sole exception being the use of current rate in the event of inaction by both houses.

Ease of implementation - This approach would be moderately easy to implement because the degree of ease would depend on when the legislation passed and what its funding level was. Both timing and amount would affect agency planning.

Current Rate

Action-forcing - Current rate would be moderately action-forcing on the Congress to act on appropriations bills. Potential pressure from beneficiaries would exist in the short and long run, depending on the ability of agencies to absorb the cut in real dollars. However, no pressure from entitlement recipients would occur. The degree to which current rate is action-forcing would increase if the Congress wants to begin new programs.

Stable services - The current rate approach affords a fairly high degree of stable recipient services, primarily through cutbacks on internal functions such as training and travel, and through some transfers and reprogramming of funds. During periods of low inflation, this approach would permit services to continue at close to the previous year's level.

Stable operations - High stability of government operations is possible with the current rate approach, especially during periods of low inflation. Any negative effects would be noticeable either in periods of high inflation or over the long-term. The effective operation of government is not threatened by current rate, nor does waste occur due to disruption of operations.

Congressional control maintained - Congress maintains moderate control over the purse with the current rate approach. Current rate's funding levels and coverage would reflect congressional priorities of the previous year. This fact diminishes immediate control over the purse and could hinder a new Congress.

Ease of implementation - The current rate approach would be easy to implement. Calculating program amounts would not be difficult, as they would be the same as in the prior year. Furthermore, as this funding level is frequently used in continuing resolutions, operating in this way would be familiar to the executive branch and the Congress.

Funding Levels and Present Program Needs

As mentioned earlier in this chapter, an ACR mechanism would go into effect automatically, bypassing the legislative process. Because an ACR mechanism would become effective in this manner, the Congress and the President would not set program funding levels based on present needs, which they can do under the normal appropriations process. With some of the ACR approaches, such as "legislation passed by either house," the program funding levels would be determined in relation to action by at least part of the Congress and, therefore, reflect to a degree a consideration of present needs. Similarly, the ACR approach using the President's budget to establish funding levels represents the administration's determination of present program needs. However, other ACR approaches, such as "federal pay only," "graduated reductions," "fixed reductions," and "withhold COLAs," would contain funding levels not directly based on present program needs but rather on an arbitrary formula designed to encourage congressional action. Other ACR approaches, "current rate" and "current operating level," set funding levels to correspond with a prior determination by the Congress and the President of program needs rather than a current assessment. Therefore, the funding levels provided by an ACR mechanism do not result from consideration and enactment of individual appropriations bills nor represent agreement by the Congress and the President on present program needs.

Assessment of Political Advantage

The assessment of ACR approaches against our first five criteria indicates that the "legislation passed by either house" approach and the "current rate" approach fared better than the others. Having narrowed the approaches down to these two, we used our sixth criterion—the political advantage of ACRs—as a final test.

The Rules Committee's concern regarding the political advantage was whether an ACR would "undercut congressional influence by guaranteeing the operation of government, thereby arming the Executive with a two-thirds majority requirement for congressionally initiated policies opposed by the Executive." More specifically, the committee wanted to know to what extent might it be to the President's advantage to prefer

operating under an ACR if the Congress were trying to enact presidentially-opposed policies and if it would have to override a veto to be successful.

We chose to separate this last criterion from the others because it raises an issue fundamental to the American political system. Although we don't see any potential violations of constitutional principle, we feel this issue is of greater significance than our other criteria and, therefore, suitable as a final test.

We assumed as a starting point in our analysis that the norm for the political advantage question was the influence exercised by both branches in the present appropriations process. We then assessed the extent to which the last two approaches increased or decreased this influence or had no effect on it.

The funding level of the "legislation passed by either house approach" is a result of House and/or Senate action without direct presidential action. In this instance, the Congress strongly influences the ACR funding level, with minimal, if any, influence by the President, producing a definite shift in the political advantage away from the President. Since this approach would give such a marked advantage to one branch, we eliminated it. In the second instance of the "current rate approach," the Congress and the President jointly influenced the ACR funding level in the previous year. This approach would appear to have a more neutral effect on the political advantage.

At this point in our assessment of political advantage, we carried our analysis one step further to determine if the apparent neutral effect of an ACR at current rate on the political advantage would be consistent over time when played out in various political scenarios. Our scenarios focus on the system of appropriations decision-making. The primary participants in this system are the Congress and the President. These participants are all able to influence the outcome of appropriations decisions. When there is general funding agreement, these decisions are not particularly difficult to arrive at. However, when strong differences exist, the decisions become more difficult and often compromises are made because ultimately bills must be passed and signed into law. Generally, however, the Congress and the President must reach agreement in order to provide any federal funding. Our scenarios comprise this current system of appropriations decision-making with one critical addition—an ACR at current rate is available in the event appropriations

expire. This feature of automatic funding may affect the behavior of the system's participants, especially their desire to reach a compromise.

Under this system, the Congress and the President would continue to work toward the goal of enacting annual appropriations acts providing funding for all government activities. If, however, this goal were not accomplished, the ACR would become activated and provide funding for those programs otherwise not funded. Since the funding level provided by the ACR would be the same as the previous year's, the ACR would maintain the "status quo." We consider the effect as creating a bias toward whichever branch of government, either the legislative or executive, that desires funding levels in the upcoming year to be similar to those set in the previous year. Thus, depending on the particular goals of each of the two participants in the system, the activation of the ACR setting the funding level at current rate could theoretically shift the political advantage toward either the Congress or the President. To illustrate the extent to which such a shift could occur, we have developed three scenarios involving ACR at current rate (unless noted otherwise).

In considering these scenarios, policy differences and similarities have been greatly simplified and generalized, and a high degree of party unity is assumed. In reality, it is more likely that policy differences will vary from issue to issue. Over the course of making decisions for all appropriations, some compromises will be reached, producing somewhat of a leveling effect across the appropriations. For example, in any given administration, on some issues the Congress will be more successful at achieving its goals, while on other issues, the President will be more successful. We have generalized these differences in our scenarios to represent the overall trend of goal achievement on appropriations issues each year. Keep in mind that the actions which would preclude or disengage funding under an ACR would be either passage of a regular appropriation or the congressional override of a presidential veto.

Scenario 1. In our first scenario, the assumed political composition is the same party in the majority in both houses of the Congress as in the presidency. Historically, this political composition has existed 67 percent of the years during the period 1789-1985 and 46 percent of the years from 1960 to the present, though it has not been the political composition since 1981. This scenario also assumes general agreement on goals among all participants. (We have no statistical data on how frequently such agreement has occurred.)

If we assume all participants desire a funding level other than current rate, either more or less, it is unlikely that having the ACR in the system would result in a shift in the political advantage because both the majority party in Congress and the President would have sufficient influence to enact legislation providing funding at desired levels.

Scenario 2. In this scenario, the assumed political composition is the same party in the majority in both houses of the Congress and a different party in the presidency. Historically, we have had different parties in power in the Congress and the presidency 17 percent of the years from 1789 to the present and 39 percent of the years since 1960. In terms of goals, we examined two variations in this scenario. The first variation assumes similar goals but degrees of difference on the manner of their accomplishment. Four possible combinations result. In two of the four combinations, the ACR-current rate is closer to the congressional goal, and, in the remaining two, the ACR level is closer to the presidential goal. The extent to which this variation of the scenario produces a shift in the political advantage toward either branch depends on whichever branch's goals are closer to the status quo or current rate.

The second variation of this scenario assumes the Congress and the President have fundamentally different goals. It appears that this variation could shift the political advantage toward either branch, depending on whose goals are closer to the status quo. However, if the President chose to veto any legislation representing congressional goals in favor of the ACR level, the level would be closer to the presidential goal, which would indicate that in this variation the political advantage is shifted toward the President.

Scenario 3. In the last scenario, the assumed political composition is the same party in the majority in one house of the Congress (C1) as in the presidency (P) and another party in the majority in the other house of the Congress (C2). Historically, this political composition has existed 15 percent of the years during the period 1789 to the present and 15 percent of the years since 1960. We assumed the goals of the President and the one house of the Congress to be generally the same but different from the goal of the other house.

In this scenario, the political advantage would shift to favor the President and the house of his same majority party. However, it is also possible that this scenario might encourage inaction in the Congress and diminish the desirability to reach compromise. For example, if C2 viewed the ACR level as preferable to the P/C1 level, it could work to

slow down or stop the legislative process until the ACR were activated. Even if such strategies were initially employed, it seems that eventually compromises would have to be struck rather than risk the embarrassment of a legislative stalemate (total legislative paralysis).

Summation of Current Rate

In summary, the committee wanted to know to what extent it would be to the President's advantage to operate under an ACR if the Congress were trying to enact policies the President opposed and had to override a veto to be successful. In answer to this question, it is to the President's advantage under all such circumstances to operate under an ACR.

Conversely, if the President desires change and the Congress does not, it is to the advantage of the Congress to operate under an ACR. The extent of the advantage to either branch depends on how closely the desired change is to the status quo.

Historically, however, the same party which has occupied the presidency has also been the majority in both houses 67 percent of the time. Under these circumstances, there would not seem to be much concern over a shift in the political advantage. The greater potential for a shift occurs when a different majority party occupies each house of the Congress. This occurred only 15 percent of the years since 1789 and 15 percent of the years since 1960, but this has been the political composition since 1981. From a historical perspective, therefore, an ACR should not raise major political advantage concerns.

Conclusions

The Congress is concerned with its use of continuing resolutions as a means of keeping the government running. Two reasons exist for this concern. The first is that although the use of such temporary funding measures is not new, in the last 5 years the Congress has increasingly relied on their use as a substitute for regular appropriations bills rather than on interim funding. Secondly, since a continuing resolution is generally considered in the final days of the fiscal year, its passage is critical to avoid a funding gap, which could result in a shutdown of all or portions of the government. Under such time pressures, a continuing resolution often emerges containing a host of additional provisions which result from compromises necessary for passage. In this way, provisions proposed on the floor can become law without going through the normal legislative process.

Sometimes sufficient controversy concerning a continuing resolution provision delays passage and produces a funding gap and a furlough for hundreds of federal employees, as occurred for one day on October 4, 1984. Both funding gaps and funding under continuing resolutions create uncertainty within and outside the federal government. From the standpoint of government operations, an unknown cost in lost productivity occurs because of this uncertainty. An automatic continuing resolution would put an end to funding gaps. An ACR would provide continuity of program funding and perhaps enable the Congress to focus on the major appropriations issues without the distraction of the controversial amendments often associated with continuing resolutions.

The ideal solution to the problem of continuing resolutions and funding gaps would be the timely enactment of the 13 regular appropriations bills. However, if such enactment is not possible, is an ACR feasible for interim funding? Experience with these kinds of mechanisms or with similar ones is limited. In a few instances, states and foreign countries have used such interim measures successfully, though for the most part, state and foreign country budgets are routinely approved on time.

Whether or not the Congress chooses to establish an ACR feature in its appropriations process will depend to some degree on reconciling the trade-offs between the various assessment criteria, especially between situations that force decisions and those that provide stability.

If the Congress decides to take such a step, in our view, a continuing resolution that would occur automatically, that is, not be dependent on specific congressional action at the end of each fiscal year for enactment, would provide stability to continued agency operations when passage of appropriations bills is in doubt. We believe that the level of funding for agencies during these temporary funding periods should be based on the levels established in the prior authorization and appropriation statutes. This option, which we call the current rate approach,

- ensures little or no disruption in government operations or program continuity,
- provides some incentive, which increases during periods of inflation, to enact regular spending legislation for nonentitlement programs,
- allows entitlement recipients to receive scheduled cost-of-living adjustments,
- is consistent with previous congressional decisions,
- is generally easy to calculate because it is based on known funding levels, and

- does not shift, in most instances, the political advantage in the appropriations process between the legislative and executive branches.

In our assessment of the feasibility of different ACR approaches against six criteria, current rate surfaced as the most promising approach considered. One potential drawback of this option, however, is that it can reduce the pressure on the Congress to reach funding decisions, which could lead to agencies operating under temporary funding measures for extended periods of time.

It is also our view that it is this very drawback which may suggest that now is perhaps not the time to change the appropriations process in a way that could reduce pressure on the Congress to make decisions. From a historical standpoint, an ACR of some form probably could have prevented some funding gaps and their related disruptions. However, the decision to incorporate an ACR feature into the appropriations process is a political one.

Comments and Our Evaluation

In commenting on this report, OMB stated that it would prefer to have the Congress try to eliminate impediments to the timely enactment of appropriations acts, rather than rely on escape mechanisms. We share this view, as found on page 44 of this report. Our position is not as strongly stated as OMB's because the Congress has rarely been successful in timely enactment of all appropriations bills, thereby making temporary funding a fact of life.

OMB has three principal objections to selecting any ACR option:

1. An ACR could reduce pressure on the Congress to make timely funding decisions.
2. Major portions of government could operate for extended periods of time without House, Senate, or presidential action.
3. Constitutional questions may be raised in applying an ACR to Defense Department appropriations. OMB suggests an extensive legal review to address these questions if an ACR option is to be seriously considered.

We concur with OMB's first two objections, as stated in the report on page 44. The third objection, concerning possible constitutional issues,

refers to the Congress' power to raise and support armies (article I, section 8, clause 12 of the Constitution), which limits the period of availability of appropriations to not more than 2 years. In reviewing the case history on this provision, our Office of the General Counsel found that the interpretation of this limitation has been narrowly construed to apply only to personnel and to operations and maintenance accounts. Therefore, the multiyear appropriations for weapons systems, for example, are outside this limitation. The Office of the General Counsel concludes that an ACR covering the Defense Department would not violate this provision because an ACR, like the current continuing resolutions, would create a new appropriation, when activated, with funding for personnel and operations and maintenance accounts available for 1 year.

OMB also expresses concern over the disruptions of government services and the hardships they cause, which the report discusses in chapter 2 and in appendix III. OMB further states that in view of these reported disruptions, it is appropriate to discuss a means to prevent them. We sought clarification of this comment. In this regard, OMB is suggesting a cooperative effort between the Congress and the executive branch to focus on a realistic timetable of available legislative days in which to complete action on the 13 regular appropriations bills and to work toward meeting this timetable. We support such a suggestion and offer our assistance if appropriate. In addition, OMB agrees with us that an ACR at current rate would preserve the status quo, as the report states on page 41.

OMB's final point also required some clarification. OMB states that "while...responsible government management demands timely action by the Congress on the budget, it also requires us to consider less attractive options in light of recent experience." OMB clarified this statement by explaining that in view of recent experience with late appropriations, it prefers to rely on government shutdown procedures or the threat of them to put pressure on the Congress to act. We continue to be concerned about the disruptive effects of funding gaps on the efficiency of ongoing government operations, as this report discusses in chapter 2 and as we stated in our 1981 report Funding Gaps Jeopardize Federal Government Operations (PAD-81-31, March 3, 1981). In the 1981 study, we recommended that "the Congress incur obligations, but not expend funds, when appropriations expire." That position still seems to be an appropriate minimum change to the appropriations process.

Request Letter From the House Committee on Rules

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MINORITY CHIEF CLERK

June 29, 1983

Honorable Charles A. Bowsher
Comptroller General of the United States
Washington, D.C. 20548

Dear Mr. Bowsher:

The House Rules Committee is examining the operation of the congressional budget process through its Task Force on the Budget Process. The task force, which is chaired by the Honorable Anthony C. Bellonson of California, is conducting hearings and work sessions to identify areas where the process could be improved, and to review various proposals for achieving these improvements.

Excessive use and abuse of continuing resolutions and funding gaps caused by their late enactment have been cited as serious problems in the budget process. Proposals have been made for Congress to enact a permanent continuing resolution born to eliminate funding gaps and to ensure timely enactment of appropriations. The Committee would be grateful for your assistance in assessing specifically the effectiveness of various forms of permanent continuing resolutions to meet these problems, and for bringing to light other implications of using this device which you think are relevant to the work of the task force.

As a first step, the Committee requests an historical review of congressional usage of continuing resolutions, with emphasis on their changing nature and the timeliness of their enactment. The Committee is familiar with the work already performed by the General Accounting Office in connection with its report on funding gaps. This historical review should build on that work and should cover the following areas as well as any others you think are appropriate: the duration of individual continuing resolutions; some measure of both the proportion of government activities and programs that have been funded by continuing resolutions; the proportion of Appropriations Committee jurisdiction, both in bills and dollars; the length of time these activities and programs have operated under continuing resolutions; the use of continuing resolutions, which hold operating rates at restrictive levels set by a general formula until the continuing resolution expires; the use of continuing resolutions that permit operating rates to be adjusted as legislative status changes; the practice of incorporating by reference bills at a particular legislative stage into continuing resolutions; and the practice of including specific line item appropriations and entire appropriations bills in continuing

Appendix I
Request Letter From the House of
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resolutions; and the use of continuing resolutions as a vehicle for new legislative riders.

A matter of particular concern to the Committee is the effect of continuing resolutions on the operation of government. It would be helpful to have your assessment of the impact of continuing resolutions on effective management of government operations and on efficient use of appropriated funds. Is disruption of activities and programs and waste a serious problem under the authority of continuing resolutions, as opposed to performance under regular appropriation bills enacted into law prior to the start of the fiscal year? Does it make a difference in this regard whether continuing resolutions set operating rates by general formulas as opposed to referencing particular bills? How relevant is the length of time during which programs and activities operate under a continuing resolution?

A separate aspect of this problem is the funding gaps that occur when continuing resolutions are not enacted on time. Your analysis of the funding gap problem should be included as part of this study. How disruptive to government operations is it? How costly is it? A permanent continuing resolution has been proposed as the solution to the funding gap problem. The Committee would appreciate having your views on various approaches to permanent continuing resolutions for meeting the funding gap problem. Which approach would best mitigate disruption of government operations and eliminate waste of Federal funds?

A permanent continuing resolution has also been suggested as a cure for the problem of operating government by continuing resolution altogether. It is argued that a restrictive permanent continuing resolution would ensure conclusion of congressional action on appropriations bills by the start of the fiscal year. Various restrictive rates have been suggested, such as the President's budget proposal, the current year's operating rate, or a percentage of the current year's operating rate. It has also been suggested that a permanent continuing resolution could be enacted that would withhold all cost-of-living adjustments for the budget year, including those now covered by permanent appropriations or those covered by entitlement authority requiring later appropriations. The Committee would appreciate having your views on the effectiveness of various approaches to setting restrictive rates in a permanent continuing resolution to achieve the desired goal of ensuring conclusion of congressional action on appropriations bills by the start of the fiscal year.

Please include in your analysis a review of the usage of permanent continuing resolutions in various states and countries. What funding levels are prescribed? How frequently is the authority used? Is the authority implemented by law or by Constitution? What purpose is it designed to meet in the respective systems of government, and how well does it meet the objectives?

**Appendix I
Request Letter From the House of
Representatives Committee on Rules**

It has been suggested that use of permanent continuing resolutions by various national legislatures is not relevant to use by the United States Congress because of the separation of powers in our Federal system. It is argued that congressional influence could be undercut by guaranteeing the operation of the Executive branch, thereby arming the Executive with a two-third majority requirement for congressionally initiated policies opposed by the Executive. The Committee would appreciate your assessment of this problem as part of your report.

In order to expedite your providing the Committee with information on these issues, it would be appreciated if you could prepare a preliminary briefing by September 30, 1983, followed by status reports from time to time as appropriate. The House Rules Committee staff contact on this project is Terry Dean (225-9486).

Sincerely yours,



Claude Pepper, Chairman
Committee on Rules

CP:lf

Case Study on Continuing Resolution for Fiscal Year 1985

Our purpose for including this case study in the report was to provide the reader with a recent example of what can happen to a continuing resolution. While this example is not meant to be typical or representative, it illustrates what is possible.

The principal source for this case study was a more comprehensive Congressional Research Service publication, "Summary and Legislative History of Public Law 98-473: Continuing Appropriations for Fiscal Year 1985 (H.J. 648)," by Edward M. David and Robert A. Keith, Report No. 85-12 GOV, Congressional Research Service, December 19, 1984.

The continuing resolution for fiscal year 1985, as it originated in the House of Representatives (H.J. Res. 648), was a full year's extension of budget authority for agencies and programs covered by nine appropriations bills that had not already passed as separate measures. The appropriations covered by the joint resolution included Agriculture, Defense, District of Columbia, Foreign Assistance, Interior, Labor-HHS-Education, Military Construction, Transportation, and Treasury-Postal Service. The Labor-HHS-Education portion, however, disengaged from the continuing resolution on November 9, 1984, after the President signed the individual appropriations bill into law.

House Consideration

There were early attempts in the House of Representatives to speed up consideration of the continuing resolution free of amendments, or, in other words, to pass a "clean" bill, but what resulted was a joint resolution passed by the House with a limited number of amendments. Initially, the House Appropriations Committee adopted several amendments in the version it marked up and ordered reported on September 14, 1984. However, the House Rules Committee determined only one amendment to be in order during the first special rule-governing debate, and waived section 303(a) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S. 634 (a)), which required adoption of the first concurrent budget resolution and enactment of necessary authorizations before any action was taken on appropriations bills. (The first concurrent budget resolution did pass on October 1, 1984.) The reasons why the Rules Committee took this action are summarized by committee member Butler Derrick as follows:

"Mr. Speaker, the Rules Committee feels very strongly that it is inappropriate to load up a continuing resolution with all sorts of new appropriations and legislative provisions. We certainly sympathize with those Members who have meritorious projects in their districts that have not received funding. We certainly sympathize with authorizing committees which have worked for years on a major authorizing

bill... However, we cannot continue to operate around here in a manner which ignores the normal legislative process—in which all of our real work is done on appropriation bills and, in particular, on the continuing resolution. It is not fair to the authorizing committees which see their work go down the drain as all attention is focused on appropriation bills. It is not fair to the Appropriations Committee which is forced to pick up all of the loose ends. And it not fair to the majority of the Members who are not in a position to have their interests protected in the continuing resolution. But most of all it is damaging to the integrity of the legislative process.”

However, the first rule encountered resistance on the floor by members who felt that since the Senate would add legislative amendments, the House would be at a disadvantage during conference on the joint resolution if it had not done the same. Consequently, the House rejected the first special rule, and the matter went back to the Rules Committee.

The second special rule again waived section 303(a) of the Congressional Budget and Impoundment Control Act of 1974, but this time specifically made in order 11 amendments printed in the Congressional Record on September 19 and 24, 1984—and prohibited any others from being offered. Subsequently, the House passed 8 of the amendments, rejected 1, and did not act on 2.

The Comprehensive Crime Control package, one of the more controversial legislative measures incorporated in the final continuing resolution, was added in the form of a motion to recommit with instructions. From the vantage point of the chief counsel, Senate Appropriations Committee, it was unusual that the House introduced the crime package at all because the legislative reforms contained in that particular amendment were more “dramatic” than he thought the House had ever initiated in a continuing resolution.

On September 25, 1984, after 2 days of floor action on the special rules and 1 day on the measure itself, the House passed its \$449 billion version of the joint resolution by a vote of 316-91. Contained in the House bill were controversial water projects which, more than any part of the continuing resolution, aroused a strong objection by the President and precipitated the threat of a veto for the entire joint resolution.

Senate Consideration

Also on September 25, 1984, the Senate Appropriations Committee marked up and reported its alternate version of the continuing resolution (S.J. 356), and authorized 35 amendments to be offered on behalf of the committee during floor consideration. The committee amendments

mostly deleted House language corresponding to the nine appropriations bills that had not yet been enacted. In addition, the committee inserted language that set spending levels which reflected the Senate reported, Senate-passed, or the conference-reported levels. The committee recommended deleting the major water project authorization and appropriations inserted by the House, but added funds to initiate certain other water projects. The committee further recommended deleting the entire Comprehensive Crime Control package that had been offered in the House. The Senate eventually voted on the House version of the continuing resolution with the committee recommendations incorporated as separate amendments.

As the full Senate began consideration of the continuing resolution on September 27, 1984, Chairman Hatfield of the Appropriations Committee commented on how the appropriations committee had worked in succeeding to act on bills, but that attaching legislative riders threatened the budget process:

"If the Senate cannot under its normal procedures finish the legislative calendar, then loading up an appropriations bill is a poor excuse. We may enjoy certain political therapy by going through the motions and getting our little publicity out to the hometown newspapers, but this does violence to the institution. This does violence to the appropriations process, and to the Senate."

[text omitted]

"So let us be aware of what we are asking for down the road from this point: when we begin to hang all of these matters on the CR. The Government and its operations on which our constituents depend will be shut down."

Senator Robert Byrd, Senate minority leader, alternatively pointed out that since the House had already added legislative provisions, it gave that body an advantage in conference proceedings if the Senate did not do likewise:

"The House of Representatives has already opened the door on this bill with respect to legislation on an appropriations bill and under those circumstances I do not believe that the Senate, except by a supermajority vote, should deprive itself of being able to offer some amendments over here that may have to go to conference and be decided between the Senate and the House of Representatives.

"The House of Representatives has certainly not meticulously not avoided adding material that constitutes legislation on an appropriations bill. So why should we let the other body have it all and this body have no rights at all along that line?"

Subsequently, Senate debate focused immediately on a civil rights issue with an ensuing legislative and procedural battle that tied up the floor for 4 of the 5 days that the Senate considered the continuing resolution. The legislative battle focused primarily on one amendment. This amendment, providing for the "Civil Rights Act of 1984," was a response to a Supreme Court decision in *Grove City v. Bell*. The decision narrowed the prohibition against sex discrimination in an educational setting by stating that only a program or activity receiving federal funds need comply with title IX of the Education Amendments of 1972. Up until the decision, institutionwide coverage was the standard, meaning that if any program or activity within an institution received federal funds, then the discrimination prohibitions applied to the whole institution. The Grove City amendment would have restored the prior interpretation of the law.

The procedural battle developed when the Senate set limits on debate by invoking closure in an attempt to thwart a filibuster on the Grove City amendment. Once closure had been invoked, the rules test involved an appeal to the chair's germaneness ruling on amendments relating to tuition tax credits, gun control, and school busing attached to the original amendment. Although the Senate stopped short of a floor vote on the germaneness question by tabling the Grove City amendment altogether, had the germaneness ruling been overturned on the floor, there would have been no procedural barrier remaining to halt unlimited debate in the Senate. While such a rules test is significant, it would effectively have allowed the majority to do whatever it wanted. According to the Senate parliamentarian, it is incidental to the continuing resolution and could have taken place on other legislation. However, the pressure to pass a continuing resolution at the end of the session and the intense political interest in the civil rights issue produced a climate where legislators felt compelled to test Senate rules at the expense of delaying those regular appropriations contained in the continuing resolution.

Once the Senate disposed of the Grove City amendment, attention turned to debate on other amendments from October 2-4, 1984, when the continuing resolution, as amended, passed by a voice vote. During its deliberations, the Senate acted on 35 committee amendments and 123 floor amendments. The Senate adopted 125 amendments and rejected 33 of the nearly 1300 that had been printed. However, not all 1300 were offered on the floor. Of the amendments that failed, 23 were rejected by direct vote, tabling motions, or sustained points of order, and 10 were withdrawn by sponsors. The final Senate package was \$464 billion.

House-Senate Conference Consideration

House and Senate conferees began meeting on October 4 and reported their agreement in a 400-page conference report on October 10. The conference report contained the full texts of five regular appropriation bills with four regular appropriations carried by reference to other legislation. The House considered the conference report on the evening of October 10, voting 252-60 in favor of adoption. The Senate considered the conference report the next day and adopted it by a vote of 78-11.

The final continuing resolution originally provided \$458 billion in budget authority. However, the Labor-HHS-Education appropriation was passed, resulting in a continuing resolution which provided \$365 billion in budget authority for fiscal year 1985. Of this latter amount, 75 percent, or \$274 billion, was for the Department of Defense appropriation. Although the Senate added numerous amendments, they did not significantly change the total amount of budget authority in the continuing resolution.

Some of the compromises in the conference bill were:

- dropping the controversial water projects,
- limiting the amount of military aid to Nicaragua,
- cutting \$5.38 billion from the synfuel program,
- cutting \$300 million for the Strategic Petroleum Reserve,
- permitting three tests of an antisatellite weapons system,
- modifying the District of Columbia Home Rule Act amendment,
- keeping a revised version of the "Comprehensive Crime Control Act of 1984" (incorporated as title II of the continuing resolution),
- adding the "President's Emergency Food Assistance Act of 1984" (incorporated as title III of the continuing resolution), and
- adding a child-care provision related to title XX of the Social Security Act (incorporated as title IV of the continuing resolution).

Final Consideration

On October 12, 1984, the President signed the version of H.J. Res. 648 agreed to by the House and Senate into Public Law 98-473.

Assessment of the Impact of Funding Gaps

This appendix summarizes the findings of our 1981 report Funding Gaps Jeopardize Federal Government Operations, PAD-81-31, March 3, 1981.

Pre-1980 Executive Agency Behavior During Gaps

Before April 1980, the government dealt with funding gaps through a variety of coping mechanisms.

Agency behavior during gaps. Agencies attempted to abide by the spirit of the Antideficiency Act, which prohibits incurring obligations without congressional authority, short of shutting down. Officials believed the Congress intended that federal agencies should remain open during these periods because it always dated its continuing resolutions retroactively. As a result, agencies dealt with expired appropriations internally within the context of budgeting and accounting functions. For example, federal officials cut or postponed all nonessential obligations such as personnel actions, travel, and awarding of new contracts.

Impact of internal agency behavior. During a funding gap, administrative costs arise in the processing of split or late paychecks. The additional costs are for: the time spent deciding how to allocate taxes, allotments, and other payroll deductions between the two checks; the time and effort spent to prepare and test new or modified payroll computer programs; computer time and associated costs to prepare and deliver split payroll computer tapes to Treasury disbursing offices; the handling associated with the second check, that is issuing, delivering, and processing through the banking system; and the ultimate payment and reconciliation by Treasury. In fiscal year 1980, these procedures amounted to a cost of \$1.1 million. A greater, but less tangible, cost is lost productivity. Late or incomplete checks affect employee morale, and attention to duties drops as employees spend time discussing the personal consequences caused by late and partial paychecks.

Impact of agency behavior on the public. Millions of Americans receive direct benefits from annually funded federal programs. A funding gap will affect these people in varying degrees depending on the length of the gap, the schedule for payments, and the willingness of state governments to provide temporary funding. We found the 11-day funding gap in fiscal year 1980 affected some segments of the public in the following ways:

- The government delayed about 100,000 GI-bill education checks from 7 to 9 days.

- The Department of Housing and Urban Development delayed about \$48 million in housing subsidy payments from October 1, 1979, until the continuing resolution was enacted on October 12.
- The government delayed for 10 days payments to about 22,000 people disabled by black lung disease.
- In two states, the Department of Agriculture completely shut down a food program which provided supplemental food to 1.6 million pregnant or nursing mothers and small children. A nationwide shutdown of the program would have occurred several days later if funding had not been provided.
- The government delayed for up to 2 days supplemental security income benefits for all new applicants approved during October 1980.
- Health Care Trust Funds lost between \$1 million and \$2 million in interest because federal matching payments were delayed. General funds absorbed the lost interest expense.

If the fiscal year 1980 funding gap had continued for another week or two, federal payments would have been cut off to such large groups of beneficiaries as recipients of food stamps, veterans compensation, and military retirement pay.

April 25, 1980: A Policy Turning Point for Permissible Procedures During a Funding Gap

At President Carter's request, the Attorney General addressed the question of whether an agency can, under the Antideficiency Act, permit its employees to continue to work after appropriations have expired. On April 25, 1980, the Attorney General issued the resulting opinion, which represented a drastic change in the status quo for agency officials. The opinion stated that during a funding gap, no obligations can be incurred except for the minimal cost of shutting down agencies.

Central Agencies Provide Further Guidance

Office of Management and Budget. Subsequent to the Attorney General's opinion, OMB issued OMB Bulletin 80-14 on August 20, 1980. Since that time, federal agencies used this document as the cornerstone for operating guidance during a funding gap. Though OMB has supplemented this bulletin with further guidance, the essence of OMB Bulletin 80-14 remains unchanged.

OMB Bulletin 80-14 set forth the following requirements:

- All agencies reallocate funds to forestall an interruption of funding as long as possible.

- All agencies maintain contingency plans for agency shutdown operations in the event of a gap. Plans must describe the limited activities necessary for shutdown and include numbers of employees needed and time required to complete shutdown (contained in subsequent guidance).
- Agency heads notify OMB, OPM, Treasury, and GSA when shutdown activities begin.
- Agencies arrange for an orderly transfer of custody of property and records to GSA and OPM for disposition.
- Agencies prepare furlough notices and process personnel and pay records.

Treasury. The Department of the Treasury provides guidance to all certifying officers and disbursing officers. During a funding gap, no payments can be made for any obligation chargeable to annual or otherwise expired appropriations, unless the Congress has extended obligational authority. An agency may prepare but not issue payroll checks unless they cover a period prior to the gap.

Office of Personnel Management. In assisting federal agencies in complying with OMB Bulletin 80-14, OPM provides guidance to all agencies regarding furlough procedures (exemptions, notifications, leave, and benefits).

General Services Administration. In order to ensure orderly transfer, GSA provides detailed guidance to federal agencies on the disposition of personal property and real property; disposition of automatic data processing, communications, and telephone equipment; and GSA motor pool accounting and record system operations guide, as well as disposition of motor vehicles.

Conclusions on Impact

During the first year after the 1980 Attorney General's decision, we reported in our 1981 study that the impact of the potential fiscal year 1981 funding gap was a cost to the government of approximately \$1.1 million in planning activities and an unknown cost from lost productivity. The specific dollar cost resulting from the lost productivity was impossible to calculate since it was not extractable from general administrative and program costs.

Individuals Contacted in Our Reassessment of the Impact of Funding Gaps and Continuing Resolutions

1. Colonel Arlen Bond, National Security Industrial Association
2. Ted Brown, Administrator of Grants and Contracts, University of Illinois
3. George Bush, Assistant to the Executive Director, Council on Governmental Relations
4. Ray Bye, Director of Legislative Affairs, National Science Foundation
5. Jack Crowley, Director of Federal Relations, Association of American Universities
6. George Dummer, Massachusetts Institute of Technology
7. Peter Goldsmith, University of California at Los Angeles
8. Mike Griffin, formerly with the Department of Labor, Office of Budget
9. Don Hess, University of Rochester
10. Larry Horton, Director of Government Relations, Stanford University
11. Thomas J. Kennedy, Association of American Medical Colleges
12. Tom Linney, Assistant to the President, Council of Graduate Schools
13. Jim Mallory, Assistant to the Executive Director, National Association of State Budget Officers
14. Franz Ohlson, Aerospace Industrial Association and Council of Defense and Space Industry Associations
15. Dave Racine, American Public Welfare Association
16. Jerold Roschwalb, American Association of State Universities and Land Grant Colleges
17. Ray Scheppach, Executive Director, National Governors Association

**Appendix IV
Individuals Contacted in Our Reassessment
of the Impact of Funding Gaps and
Continuing Resolutions**

18. Bill Schierer, Office of Economic Research, Small Business Administration

19. Barry Van Lahr, Analyst in Human Services, National Governors Association

20. Nan Wells, Princeton University

21. Al Zuck, Executive Director, National Association of Schools of Public Affairs and Administration

Different Approaches to an Automatic Continuing Resolution

Current Rate

A rate that would fund agencies at the previous year's funding level. The level would be the total amount available for obligation in the previous year. Entitlement recipients receive scheduled cost-of-living adjustments (COLAs), but included in the restriction would be federal comparability pay increases. This is the approach taken in two recent legislative proposals—H.R. 2025 (Rep. Mineta) and H.R. 2777 (Rep. Dingell). This approach was also utilized in the first continuing resolution for fiscal year 1984 to fund the Treasury Department.

Current Operating Level

A resolution that would allow agencies to continue at the same program level as is in effect at the end of the previous year. In most cases, this proposal would increase the total amount of funds available for obligation from the previous year's level. This approach was utilized to fund the Department of the Interior in the fiscal year 1983 continuing resolution.

Legislation Passed by Either House

A resolution based on spending legislation passed by either or both houses of the Congress. The criteria for selection are presented below:

- If neither house has passed an appropriation before midnight September 30, current rate becomes the funding level.
- If legislation has passed only one house by the same deadline, the levels specified in that house's bill become the appropriation.
- If passage of legislation has occurred in both houses prior to the start of the fiscal year but has not reached conference, the midpoint between the two would be the funding level in the resolution.
- If legislation has passed both houses and has been through conference by midnight September 30, the amount contained in the conference report would be the final amount in the resolution.

The rate that becomes effective October 1 will remain in effect for one quarter unless appropriation legislation becomes law. The funding level determined by one house will be changed at the beginning of the second quarter to reflect passage in the other house, which is again the midpoint of the two. If legislation has not been passed by the other house, the same level will remain in effect for the second quarter also.

Lowest Level

A resolution at a level representing the lower of the House/Senate action. (Action by a committee would constitute action by that house.)

One alternative or option is to include the President's budget in the calculation of lowest level. The lowest level of the House/Senate has also been used very frequently in the calculation of past continuing resolutions and was employed in the 1984 continuing resolution to fund large parts of the Labor-HHS-Education appropriations bill, as well as one other appropriations bill.

President's Budget

A rate that would provide appropriations for all activities at a level set forth in the President's budget estimate for October 1 of the new fiscal year. The Congress must decide whether to consider various options, such as allowing presidential updates past the beginning of the fiscal year. We considered this approach because some foreign countries use it.

Restrictive Levels

A resolution serving as an inducement to the Congress to enact appropriation bills by containing features less than attractive to the Congress. The resolution can restrict the Congress in two ways: It can be restrictive in the amount of funds (as in withholding COLAs), or it can restrict congressional prerogatives (as in substituting the President's budget request).

- **Graduated Reductions**—Funding cut to current rate, then decreased by a set percentage at regular intervals each month or quarter until a predetermined percentage reduction is reached.
- **Fixed Reductions**—Funding cut to a fixed percentage of current year rate.
- **Withhold COLAs**—Hold indexed programs at the current rate or provide a partial COLA.
- **Federal pay and funds for related support services**—Employees, while being entitled to receive their pay, would, in many cases, not be able to perform their basic duties. (For example, employees would not be able to award grants or issue checks. However, basic support services such as water and electricity to buildings would be covered.)

Criteria Used to Rate Continuing Resolutions

Forcing Action Toward Completion of the Budget Process

The resolution would contain features that impel the Congress to enact appropriations bills by making automatic continuing resolutions unattractive. Resolutions providing funds counter to the wishes of the Congress or lessening congressional prerogatives in the budget process would fall into this category. However, whether an approach is action-forcing can depend on the specific time frame in the budget calendar. An approach can be action-forcing for both houses prior to the start of the fiscal year, but contain incentives for one house to block action on appropriation bills after the start of the fiscal year—if that house's numbers become the funding level for the fiscal year. This situation can be alleviated somewhat by imposing a deadline of one quarter after which final action in the other house can be averaged into the funding level.

Stability of Recipient Services

By stability of services, we mean not only continuity in the face of a funding lapse but also the degree to which recipients would notice little or no interruption in full benefit levels. The emphasis in this category is on program recipients.

Stability of Government Operations

Stability of government operations concerns whether federal agencies could remain in operation with the passage of an automatic continuing resolution. Waste and duplication are created when federal agencies are forced to close and reopen due to funding gaps. Even if an actual shut-down does not occur, time is spent preparing for a potential shut-down.

Maintain Majority Congressional Control Over the Public Purse

While the President formulates the budgets, it is the Congress that appropriates. An automatic continuing resolution has the potential to shift this power, depending on the point of reference of the funding. Also, by guaranteeing the operation of the executive branch, the President may be armed with a two-thirds majority requirement by his veto power. This approach should maintain the will of the majority, not simply the will of one committee or one committee chairman.

Ease of Implementation

Ease of implementation is how administratively workable the ACR is for both the Congress and the executive branch. It affects the Congress to the extent that it must be made aware of the implications of carrying out such a resolution and concerns the executive branch in that agencies will implement the ACR put into place. The ease of implementation

depends on how easily the executive branch can incorporate the ACR into its planning and budgeting systems.

Political Advantage

Our application of this concept concerns the extent to which an ACR approach may affect the influence on spending decisions exercised by the Congress or by the President in the appropriations process. An ACR approach that does not provide a political advantage would be one that does not change the extent of existing congressional or executive influence on spending decisions.

Assessment of ACR Approaches

Our assessment of the ACR approaches is fully analyzed in the following table, which shows how each approach would fare when weighted equally against each of the first five criteria. Careful study of this table permits the comparison of each approach against the others across the criteria. An examination of the table reveals that no approach is rated "high" against each of the five criteria. The real trade-off comes with the action-forcing and stability criteria. For example, the approaches which are rated "high" in action-forcing (President's budget, graduated reductions, withhold COLAs, and federal pay only) are only "moderate" to "low" in stability of recipient services. However, two of the ACR approaches are better than the rest when judged against the five criteria weighted equally. These approaches are legislation passed by either house and current rate.

Table VII.1: Summary of Approaches

Criteria	Current rate	Current operating level
Action-forcing (table VII.2)	Moderate	Low
Stability of recipient services (table VII.3)	High	High
Stability of government operations (table VII.4)	High	High
Maintain majority congressional control over the purse (table VII.5)	Moderate	Moderate
Ease of implementation (table VII.6)	High	Moderate

**Appendix VI:
Assessment of ACE Approaches**

Legislation passed by either house	Lowest level	President's budget	Restrictive levels			Federal pay and support
			Graduated reductions	Fixed reductions	Withhold COLAs	
Moderate	Moderate	High	High	Moderate	High	High
High	Moderate	Moderate	Moderate	Moderate	Moderate	Low
High	Moderate	Moderate	Moderate	Moderate	High	Low
High	Moderate	Low	Moderate	High	High	Moderate
Moderate	Moderate	High	Moderate	Moderate	Low	Moderate

**Appendix VII
Assessment of ACF Approaches**

Table VII.2: Criterion: Action-Forcing

Approach	Rating	Comments
Current rate	Moderate	<p>Potential pressure from beneficiaries in both the short and long run, depending on the ability of the agencies to absorb the cut (in real dollars).</p> <p>No pressure from entitlement recipients.</p> <p>Can be action-forcing if the Congress wants to create new programs.</p>
Current operating level	Low	<p>No action-forcing features. Little incentive to enact appropriation bills.</p> <p>Can be action-forcing if the Congress wants to create new programs and end old programs—unless specifically addressed in ACR legislation.</p>
Legislation passed by either house	Moderate	<p>Strong action-forcing features before the fiscal year. Each house would have an incentive to complete money bills to exert influence over funding level.</p> <p>However, action-forcing features are lost for the house with the numbers are employed at the start of the fiscal year.</p>
Lowest level	Moderate	<p>Action-forcing if lowest level impairs program continuity.</p> <p>Few action-forcing features for the house whose level is employed.</p> <p>Highly action-forcing if the President's budget is employed and is very different from the Congress' goals.</p>
President's budget	High	<p>The Congress would, in effect, relinquish power over the purse.</p>
Graduated reductions	High	<p>Highly action-forcing, especially in the long run. Severe service outbacks could lead to political pressure to pass appropriation bills.</p> <p>Biggest effect on those programs funded incrementally throughout the year, i.e., salaries and expense accounts. May exempt grants and contracts.</p>
Fixed reductions	Moderate	<p>How action-forcing depends entirely on the percent reduction. The results could lie anywhere along a continuum from little to very restrictive.</p>
Withhold COLAs	High	<p>Expect extreme pressure from politically visible interest groups.</p>
Federal pay and support	High	<p>Government services would discontinue, and all program funding would end, at least temporarily.</p> <p>Would affect labor-intensive agencies less in the short run.</p>

**Appendix VII
Assessment of ACR Approaches**

Table VII.3: Criterion: Stability of Recipient Services

Approach	Rating	Comments
Current Rate	High	By cutting back on internal functions (training, travel, etc.), some stability could be maintained in as far as funds could be transferred or reprogrammed. With low inflation, it would be possible to operate just about the entire year.
Current operating level	High	The most stable of all approaches. Permits the same level as the previous year.
Legislation passed by either house	High	The potential exists that economic changes over the past year will be reflected in appropriation legislation passed by either house.
Lowest level	Moderate	One committee may want to cut a program or agency, or the potential exists to do so. Nevertheless stability of recipient services would, excluding the above exception, be maintained with this approach.
President's budget	Moderate	Depends on the makeup of the proposed budget. Unless the President wants to make drastic cuts in services, there would be little effect on stability.
Graduated reductions	Moderate	Would permit a transition period to deep cuts, which would enable agencies to make the maximum amount of adjustments possible. In the long run, a number of services would be cut or scaled down.
Fixed reductions	Moderate	Would especially hurt a program where the bulk of funds are spent at the beginning of the year. The larger the fixed percentage, the greater the effect on service.
Withhold COLAs	Moderate	Major impact on beneficiaries. However, there may be a delayed impact depending on the timing of COLAs. Regular appropriations may well be passed first.
Federal pay and support	Low	As it now stands, a proposal to continue federal pay has no provision to continue services.

**Appendix VII
Assessment of ACR Approaches**

Table VII.4: Criterion: Stability of Government Operations

Approach	Rating	Comments
Current rate	High	<p>Generally would maintain the federal government intact, with any effects in the long run only, especially during periods of low inflation.</p> <p>Does not preclude effective operation of the government.</p> <p>No waste. Would not cause disruption of services.</p>
Current operating level	High	No effects in the short or long run. Complete maintenance of the status quo.
Legislation passed by either house	High	Generally will reflect economic and programmatic changes.
Lowest level	Moderate	No waste. The government, in all likelihood, could function unimpaired.
President's budget	Moderate	<p>One committee could decrease the amount funded, causing a certain number of adjustments to be made. The adjustments may be disruptive.</p> <p>There could be exceptions, but generally speaking, the federal government would, in very large part, be maintained.</p> <p>However, the level and amount of restrictiveness are at issue here. Recent attempts by presidents in both parties to eliminate or reduce government functions provide evidence.</p>
Graduated reductions	Moderate	<p>The longer the ACR is in effect, the more difficult it becomes to keep the federal government in operation.</p> <p>Could disrupt agencies by forcing them to prepare lengthy, detailed plans.</p>
Fixed reductions	Moderate	<p>Depends entirely on the percentage reduction. Generally, most agencies could be maintained by cutting travel, training, and other miscellaneous expenses. (This, of course, depends on the agency's ability to reprogram funds.)</p> <p>Permits no transition to lower levels.</p>
Withhold COLAs	High	Cuts, by definition, would only involve those outside the workforce.
Federal pay and support	Low	<p>While employees could report to work, they could not obligate or expend funds. Therefore, in the long run, government functions would halt.</p> <p>Would also involve waste and duplication in restarting operations.</p>

**Appendix VII
Assessment of ACE Approaches**

Table VII.5: Criterion: Maintain Majority Congressional Control Over the Purse

Approach	Rating	Comments
Current	Moderate	Congressional priorities from the previous year would be reflected. However, this may be a hindrance for a new Congress. Immediate control over the purse would be diminished.
Current operating level	Moderate	Congressional priorities from the previous year would be reflected. However, this may be a hindrance for a new Congress. Immediate control over the purse would be diminished.
Legislation passed by either house	High	Congressional priorities are reflected in either or both bills.
Lowest level	Moderate	If the President's budget is used, control is diminished. Where either house is used, congressional priorities are reflected.
President's budget	Low	The Congress would completely relinquish control over the purse.
Graduated reductions	Moderate	Congressional control maintained in as far as the Congress determines the composition of programs by a predetermined funding formula set by the Congress.
Fixed reductions	High	Control would not be compromised although one Congress may be locked into a formula set by some previous Congress.
Withhold COLAs	High	Control would not be compromised.
Federal pay and support	Moderate	Even though the Congress may have authorized budget authority, no funds could be spent until the Congress would act to provide new spending authority.

**Appendix VII
Assessment of ACR Approaches**

Table VII.6: Criterion: Ease of Implementation

Approach	Rating	Comments
Current rate	High	Easily implemented. Each agency would know how much it would receive if its appropriation were late. Frequently used in current continuing resolutions and would thus be familiar to agencies.
Current operating level	Moderate	The agencies would be able to continue providing the same level of services they were providing at the end of the year, but calculating exact program amounts could be quite difficult.
Legislation passed by either house	Moderate	The ease depends on when legislation is passed and on the amount approved in legislation. Both timing and amount would affect agency planning.
Lowest level	Moderate	The same determinants apply to this approach as to legislation passed by either house.
President's budget	High	Agencies would know what their funding levels would be and could easily implement a continuing resolution in accordance with their budget submissions.
Graduated reductions	Moderate	Cuts in funding at regular intervals would necessitate detailed plans with difficult choices. The deeper the cuts, the more difficult to implement, especially if the cuts necessitate personnel cutbacks However, there is a built-in transition period to deep cuts.
Fixed reductions	Moderate	The less the reduction, the easier to implement. Alternatively, the more severe the initial cut, the more difficult to implement.
Withhold COLAs	Low	The fact that cost-of-living estimates are a basis for partial or total reduction of COLAs means that this will become a highly politicized process. In this event, implementation problems will be heightened.
Federal pay and support	Moderate	There would be little question as to the accounts that could continue to be funded. However, it would be difficult to implement and proceed employing this approach for any length of time.

Comments From the Office of Management and Budget

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON DC 20503

SEP 10 1965

Mr. Frederick D. Wolf, Director
Accounting and Financial
Management Division
General Accounting Office
441 'G' St., N.W., Pm. #6001
Washington, D.C. 20546

Dear Mr. Wolf:

This letter is in response to your letter of August 15, 1965 requesting our comments on the General Accounting Office's (GAO) draft report on Government funding interruptions, History of Continuing Resolutions and Pros and Cons of Automatic Funding Approaches. We appreciate the opportunity to review the draft report and to provide you with our views on the suspension of Government operations, the efficacy of continuing resolutions, and the proposals for automatic continuing resolutions (ACRs).

As GAO's draft report indicates, the use and implications of continuing resolutions are not new in the history of Federal budgeting. We agree with GAO's historical analysis documenting that continuing resolutions were generally confined both in extent and effective period. We also concur with GAO in its observation that in recent years Congress has failed more often than in the past to enact appropriations bills on time, leading to greater reliance on continuing resolutions. Certain factors at work in the past five years, however, have impeded even the timely enactment of continuing resolutions, resulting in the expiration of appropriations for some agencies and, in two years, the actual suspension of Government operations. As GAO notes, these factors include the amendment of continuing resolutions with substantive legislation and the frequent consideration of controversial limitation riders, disposition of which involves lengthy debate. In recognition of these events, the House Rules Committee directed GAO to consider automatic continuing resolutions as a means of preventing expiration of selected appropriations or the outright suspension of Government operations.

We would prefer that the Congress look for measures to eliminate the factors that impede timely enactment of appropriations acts, rather than to rely on escape mechanisms that fundamentally alter the governing process established under the Constitution and Federal statutes. We have three principal objections to the selection of any ACR option. First, we agree with GAO's stated reservations that adoption of an automatic continuing resolution option could actually reduce

See comment 1.

the pressure on the Congress to make funding decisions in a timely manner. Second, under any of the ACR proposals, there is the very real possibility that major portions of the Government would operate for extended periods of time under appropriations enacted without both bicameral action and presidential approval. Finally, we are concerned that the ACR proposal may raise constitutional questions in its application to appropriations for the Defense Department. We believe that a more extensive legal review would be necessary if serious consideration were given to implementing an ACR option.

We are, however, very concerned over the disruption in funding of Government services and the hardship incurred by citizens when appropriations actions are not completed on time. In the context of these repeated disruptions, we believe that it is appropriate to discuss a means to prevent them rather than merely hope for timely Congressional action. The option of the use of an automatic continuing resolution providing for permanent appropriation authority at a current rate level at least offers to preserve the current year status quo until Congress passes new appropriations bills and submits them to the President for his review. Clearly, while we believe that responsible Government management demands timely action by the Congress on the budget, it also requires us to consider less attractive options in light of recent experience.

We request one revision to the text of the draft report itself. On page 18A, the report states that, "This OMB requirement can be disruptive to normal operations and productivity," apparently referring to OMB instructions for the suspension of Government services when appropriations have not been enacted. This is not an OMB requirement. As the report indicates elsewhere, OMB instructions were issued pursuant to the opinions issued by the Attorney General of the United States interpreting the Antideficiency Act (31 U.S.C. 1341). To suggest that it is merely an OMB requirement may mislead some into believing that the problem can be solved administratively. The sentence would be accurate if "OMB" were deleted.

We remain interested in conferring with Congressional and GAO representatives on the issues raised by the draft report.

Sincerely,

Carey P. Modlin
Carey P. Modlin
Assistant Director for
Budget Review

**Appendix VIII
Comments From the Office of Management
and Budget**

The following are GAO's comments on the Office of Management and Budget's letter dated September 10, 1985.

GAO Comments

1. The report title has subsequently been changed.

Comments From the State of Wisconsin

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



State of Wisconsin Department of Administration

101 South Webster Street • Madison, Wisconsin 53702

Anthony S. Jari
Governor
Doris J. Hanson
Secretary

Mailing Address
Post Office Box 7864
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August 29, 1985

Mr. Frederick D. Wolf, Director
Accounting and Financial Management Division
U.S. General Accounting Office
441 G Street, N.W., Room 6001
Washington, D.C. 20548

Dear Mr. Wolf:

Thank you for giving us the opportunity to review and comment on the draft GAO report, History of Continuing Resolutions and Pros and Cons of Automatic Funding Approaches. We have suggested several changes to the draft and have edited a copy of the draft to reflect those suggested changes. We believe the changes provide a more accurate, understandable description of our budget process.

Please call me at (608) 266-8777 if you have any questions on our comments.

Sincerely,


John Montgomery, Chief
Budget Operations

JM:ac

See comment 1.

The following are GAO's comments on the State of Wisconsin's letter dated August 21, 1985.

GAO Comments

1. The report title has subsequently been changed.

Glossary⁸

Appropriation	An authorization by an act of the Congress that permits federal agencies to incur obligations and to make payments out of the Treasury for specified purposes. An appropriation act usually follows enactment of authorizing legislation.
Appropriation Act	An act, under the jurisdiction of the Committees on Appropriations, which provides funds for federal programs. At this time there are 13 regular appropriations acts.
Authorization (Authorizing Legislation)	Basic substantive legislation enacted by the Congress, which sets up or continues the legal operation of a federal program or an agency either indefinitely or for a specific period of time. Such legislation usually includes one or more clauses authorizing the subsequent enactment of specified amounts of appropriations for one or more fiscal years.
Automatic Continuing Resolution (ACR)	An automatic method of temporarily funding—at a specified rate—for those government operations whose appropriations have expired when the Congress has not passed regular appropriations bills on time. This mechanism, once established, would require no further presidential or congressional action and would avoid potential delays currently associated with continuing resolutions, occasioned by votes, riders, presidential signatures or vetoes, or funding gaps.
Budget Authority	Authority provided by law to enter into obligations which will result in immediate or future payments involving government funds.
Budget Resolution	A concurrent resolution passed by both houses of the Congress, but not requiring the signature of the President. It sets forth, reaffirms, or revises the congressional budget for the United States government for a fiscal year.
Continuing Resolution	A joint resolution enacted to provide budget authority for specific ongoing activities in cases where the Congress fails to pass the regular

⁸Terms in this glossary have been adapted from *A Glossary of Terms Used in the Federal Budget Process* (GAO/PAD-81-27) and *Congress and Money* (Allen Schick, the Urban Institute, Washington, D.C.: 1980, pp. 581-591).

appropriation bill for such activities by the beginning of the fiscal year. Although "continuing resolution" is the commonly used term for these temporary spending measures, the term appearing in the legislation is "continuing appropriations."

Entitlements

Legislation that requires the payment of benefits (or entitlements) to any person or unit of government that meets the eligibility requirements established by such law. Examples of entitlement programs are social security benefits and veterans compensations or pensions.

Funding Formula

A provision in a continuing resolution which specifies the manner in which to calculate the budget authority available, instead of providing a particular amount, for a program or activity. Funding formulas generally are based on such variables as the current rate, House- or Senate-passed bills, or the administration's budget estimate.

Funding Gaps

Periods during which federal agencies have no authority to incur obligations or to make payments because annual or supplemental appropriations have not been enacted into law. The origin of this concept is based on the requirements of the Antideficiency Act (31 U.S.C., section 1341 (a)(1)), which prohibits federal agencies from incurring obligations without congressional authority. Since 1980, the Office of Management and Budget has required agencies to be prepared to shutdown their operations in the event of a funding gap.

Germaneness Rule

An amendment must always be germane—that is, closely related to or having bearing on the subject of the motion to be amended. This means that no new subject can be introduced under pretext of being an amendment.

Line-Item Appropriation

In continuing resolutions, either an appropriation for a program, project, or activity at a specified level which differs from what the funding level would have been if it had been subject to the general funding formula or an appropriation for a new project or activity.

Obligations

Amounts of orders placed, contracts awarded, services received (including employee salaries), and similar transactions that will require payments (outlays) during the same or a future period.

Riders

Appropriations riders are of two basic types, legislative and limitation. Legislative riders make affirmative changes in existing law, while limitation riders, which are more common, bar the use of funds for a specific purpose or program. While not explicitly legislative in nature, limitation riders also effectively alter existing law.⁹

⁹We recognize that earmarks (funds designated for a specific purpose) may also be considered limitation riders. However, we chose to include only limitation riders that bar the use of funds.